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The Solicitors' Journal.

LONDON, SEPTEMBER 21, 1867.

IT IS SCARCELY more than a year since we announced to our readers the second elevation of Francis Blackburne to the Lord Chancellorship of Ireland. A few months afterwards we had to record his resignation of that office on account of failing health, and it is with unfeigned regret that we now commemorate the death of Ex-Chancellor Blackburne. An obituary will be found in another column.

THE VACATION Chief Clerk in Chancery is almost overpowered with applications for time to answer. In one late case five months time had already been granted and further time was afforded. We are afraid there is rather too much disposition to grant time as a matter of course during the long vacation, and we believe the practice of some (if not of all) of the Chief Clerks is to require the time last granted only to be accounted for. For instance, if a fortnight were added to the five months above alluded to, and due diligence could be shown to have been used during that fortnight, further time would be granted almost as a matter of course. It does not appear to us that this is exactly fair towards the plaintiff whose suit is vexatiously delayed, and who probably may get into a difficulty with one defendant on account of the delay in putting in the answer of another one. It is a question whether an affidavit should not be required in all cases where one order for time has been made, and that all the time should be strictly accounted for. It seems singular to contrast the celerity required in pleading at Common Law with the procrastination in Chancery. After eight days, time can only be obtained, and often with great difficulty, by judges orders, though it is obvious that pleadings at Common Law often require great care and thought. It is a common thing to put a defendant under terms of taking short notice of trial which frequently puts him to the greatest possible inconvenience and is probably the cause of his losing his case from the difficulty in subpoenaing his witnesses and preparing for trial in such a short period of time. A frequent, and indeed the common, pretext for delay in Chancery is the absence of counsel from town.

THERE SEEMS to be a difference of opinion among the metropolitan magistrates upon the recently invented railway key question. Sir Robert Carden appeared quite surprised to learn that on certain lines the bye-laws of the company prohibited the use of a private key,—he had, he said, been in the habit of carrying one himself (a habit shared, we fancy, by a large portion of those who live a little way out of town), and we may therefore presume, do not regard the use of a railway key as *malum in se*, but merely as *malum prohibitum* in the case of certain railways. Mr. Trail, in disposing of a case which came before him rather more recently, is reported to have commented on the use of such keys as a most improper practice. We confess that we cannot acquiesce in this view. Where among the bye-laws of a

railway company, which have been sanctioned by the Legislature, is to be found an enactment forbidding the practice, there can be no doubt that the employment of a private key is illegal (though as a correspondent pertinently remarked last week, there may be a material distinction between letting yourself into a carriage and letting yourself out of one, and in a case of accident or upon an unsuccessful application to the company's "agent"—i.e., the guard or porter—it would be perfectly legal to use your private key in the teeth of the prohibitory bye-law), we do not see, however, that the use of such a key is, irrespective of the bye-law, an improper act. There are improper acts which are also forbidden by law—larceny, for instance—and there are also acts improper enough in themselves which the law has not prohibited by direct enactment (e.g., seduction); besides these there are acts otherwise unobjectionable which the Legislature has found it expedient to prohibit. The use of the railway key on certain railways is, in our opinion, to be classified in the last of these divisions, and not, as Mr. Trail would probably hold, in the first.

WE LEARN that the officers connected with the Social Science Congress have been unusually busy in making preparations for the meeting at Belfast, and that a great success is confidently anticipated. The opening lecture was delivered by Lord Dufferin in the Ulster-hall on the evening of the 18th, and Mr. Justice O'Hagan, the President of the Department of Jurisprudence, on the following morning delivered an eloquent address to a very crowded and fashionable audience.

Among the papers which will be read are the following on legal topics:—"On the English Jury System," by Mr. Serjeant Pulling; "On the Scotch Jury System," by Mr. G. R. Tennent; and another paper by the same gentleman, "On Official Trustees for executing Private Trusts, and on the expediency of providing for their remuneration;" "On Local Courts and Tribunals of Commerce," by R. M. Pankhurst, LL.D.; "On Irish Intermediate Prisons," by J. P. Organ. Papers will also be read in the Section of Municipal Law, by Mr. H. N. Mozley, and Mr. J. L. Whittle, and on the Repression of Crime by Mr. T. B. H. Baker and Miss Rosamond Hill. Several other papers will be read, which, though not strictly of a legal character, yet approximate thereto, as suggesting legislative or administrative action in certain matters. Among these are the following:—"On the Necessity of State Control over Drunken Maniacs," by the Rev. W. Mollwaine; "On Irish Municipal Government," by Mr. John Anderson; "On Irish Fisheries," by Mr. J. A. Blake, M.P.; "On Friendly Societies," by Mr. W. Kirkpatrick; "On Emigration From Ireland," by D. C. Heron, Q.C.; "On the Taxation of Ireland," by Mr. J. Noble; "On Government and the Railways, and a Uniform Telegraphic Post," by Mr. E. Chadwick, C.B. We understand that in consequence of the great number of papers placed at the disposal of the various departments it was found necessary to decline several of them. These, however, if their authors should desire, will find a place in the "Transactions" of the Congress.

A CORRESPONDENT, writing last week, corroborates our observations upon the late case of *Seagram v. Knight*, in which Lord Chelmsford, as the reader will recollect, ruled, to the surprise of the profession, that the operation of the Statute of Limitations can be suspended after the statute has begun to run. The decision in question appears to have been the result of an inadvertence, but our correspondent gives way to needless apprehensions when he speaks of the decision as equally irreversible with an Act of Parliament. In the first place the decision is the decision—not of the House of Lords, but of the Court of Appeal in Chancery merely. If the principle it embodies proves to be inconvenient and unwholesome in its application (a consideration upon which we shall not now enter) the profession need not fear

but that it will not be allowed to stand. The Lords Justices would probably not hesitate, if convinced of the erroneousness of the decision in *Seagram v. Knight*, courteously to differ from the Lord Chancellor's. Further than this, the rule which binds courts of inferior jurisdiction to abide by the decisions of superior tribunals when counter to their own inclination, is not so inexorable a rule but that, like other rules, it may be proved by an exception. It is but a few months ago that, in the case of *Drummond v. Drummond*, Vice-Chancellor Stuart disregarded a decision of Lord Westbury's, pronounced a decision directly contrary to his Lordship's ruling, and was upheld in so doing by Lord Chelmsford and the late Lord Justice Turner. There is no fear but that, if necessary, the decision in *Seagram v. Knight* will share the fate of that of *Drummond v. Drummond*.

IN THE DEAD SEASON of the year the newspapers teem with correspondence upon every possible subject. Among the subjects which have been recently ventilated by those who have been obliging enough to supply some of our contemporaries with filling matter, is that of shareholdership in joint-stock companies. One correspondent of the *Times* speaks somewhat bluntly of the "ignorance and unreason" of shareholders. Another, of course, takes up the cudgels in their defence. The country, the latter says, is covered with stupendous works, the result of the shareholders' outlay. No one thanks them; and if a crash comes, and their company becomes a wreck, they are ridiculed for their credulity or censured for their ignorance. Moreover, he asks, if barristers, solicitors, brokers, bankers, clergymen, and others, possessing "like means of information and reputation for acuteness are not able to detect unsound investments, how can an ordinary investor be expected to do so?"

It is indeed true that we owe to the existence of the shareholder in public companies the success of many enterprises which private capital could never have hoped to accomplish, but it would hardly be contended by the gentleman who urges the shareholders' claims upon our sympathy that a regard for the public weal was the principal spring of action which moved him to become one. We are indebted to the joint-stock investor for many great works and many useful institutions; we are also indebted to the adventurers who prey on him, are nourished by him, and but for him could not conduct their operations, for many unwholesome and impossible undertakings, for mismanagement which frequently destroys the fair chances of legitimate enterprise; in short, for various results which destroy public confidence and stop the way of honest commerce. The benefits we owe to the investors' enterprising spirit,—for what is on the *per contra* side we are indebted to his rashness and incaution. The shareholder, while claiming credit for one side, must give credit for the other. If those who propose to embark money in joint-stock speculation would only take more pains to examine the soundness of the undertakings by which they are tempted, we should hear far less than we now do of fraudulent prospectuses, misrepresentations by directors and promoters, and such like. There is no denying the fact that shareholders and investors are guilty of great incaution and supineness. Shares are subscribed for without the smallest attempt at an investigation of the truth of the promises and statements held forth, and not only so, but assuming the truth of the facts upon which the calculations of profit are supposed to be made, no investigation whatever is made as to the machinery by which the promoters propose to work the Potosi which they profess to have discovered. How few shareholders there are who think of looking before they leap, or who ever examine the articles of association of a company, before, by a subscription for shares, they render themselves bound thereby. It would almost seem as if there were no silly thing which men and women are not capable of doing in connection with commercial speculation. In 1720, during the South

Sea Bubble mania, a company was projected, entitled "a company for carrying on an undertaking of great advantage, but nobody to know what it is,"—£2 deposit, which was to entitle the subscriber to a result of £1,000 per annum. Within six hours a thousand shares were taken in this promising undertaking, and the deposits duly paid. The South Sea Mania was an exceptional calamity which we may fairly hope will never be rivalled, but we all know what happened shortly before the first railway panic, and we believe that most sensible men would be astonished if they were aware of the amount of supineness which shareholders, *in esse* and *in posse*, habitually display. The case of Overend, Gurney, & Co. was an exceptional one, there the complication of accounts was so great that more than ordinary skill might have failed to detect the true state of affairs; but in innumerable cases, a little pains would put the intending purchaser in possession of sufficient information. If a company is mismanaged, or if its constitution is ordered so as to place the ventures of the subscribers too much at the mercy of the directors and promoters, or if the constitution of the company proves to be different from that which was held out to the public, can a shareholder complain who has never troubled himself in the slightest degree to examine the articles of association by which he is now bound?

There are a large number of persons who suffer from the effects of joint-stock failures, of whom much investigation could not reasonably be expected. Single ladies who have money to invest can hardly be expected to dive very deeply into the prospective advantages of speculations, and recent statistics would seem to indicate that clergymen ought to be placed in the same category, although this would not seem to have occurred to the letter-writer whose remarks we have been noticing. Allowing for all who may be embraced in this category, we repeat that there is a great amount of incaution and negligence for which shareholders are reprehensibly responsible. The results have been prominently before the public. The remedies are less clear; we have already partially discussed them, and may perhaps have occasion to do so again.

WE LEARN, on good authority, that the case of *Bawendale v. McMurray*, in which Lord Justice Lord Cairns delivered judgment on the 31st of July last, reversing the decree of Vice-Chancellor Stuart, and dismissing the plaintiff's bill with costs, is likely to be appealed to the House of Lords.

JOINT-STOCK LEGISLATION.

THE COMPANIES ACT, 1867.

The older branches of law, such as the law of Real Property for example, appear as time advances to discard complications one after another, and to assume with each succeeding legislative modification a greater simplicity, both of principle and procedure. With such branches of our legal system as have been called into existence by the yearly augmenting intricacies of commerce this has necessarily been far otherwise, indeed not only have complications and ramifications increased as time has advanced, but the changes made have been so frequent and so radically important as to savour more of an experimental process than a gradual development. Two branches in particular appear to be in a condition of unrest which, in one of them especially, would almost suggest that previous legislation must be regarded as, to a great extent, merely tentative. Of these two branches one has increased so enormously within the memory of persons now living as to have acquired a separate system of tribunals. We mean the law of bankruptcy. With this branch of law the Legislature proposed to deal during the past session, but, as our readers are aware, the pressure of other business occasioned the postponement of a measure of grave moment. The other branch, the law affecting joint-stock companies, has been dealt with by the Act whose title heads this article.

The law of public companies appears, more perhaps than any other branch, to be in a state of transition, and the questions which it presents for solution are so very difficult and complicated that one feels inclined to regret that a necessity for a renewed attempt at legislation on the subject should have occurred at a period when there was so much to engross public attention in another direction. It is now some hundred and forty years since the Bubble Act (repealed in 1825) attempted the total suppression of joint-stock companies, forty-three years since the first Act was passed which enabled companies generally to obtain incorporation otherwise than by charter or special Act of Parliament, and twenty-two since the first introduction of the great modern principle of limited liability. Since the last of the above dates we have witnessed, besides a large number of minor enactments, three grand legislative efforts at a satisfactory adjustment of the law of joint-stock enterprise—the Acts of 1844, 1856, and 1862. The first of these Acts initiated the principle of general in lieu of special incorporation, and embodied in its machinery a system of provisional registration which was afterwards abolished by the Act of 1856. The Act of 1856 introduced a radical reform as regarded the dissolution of companies, instituted the present system under which companies are wound up in chancery, and provided for the voice of the creditors in commencing and carrying on the process; it also developed the grand principle of limited liability which had been initiated by an Act of the preceding year.

The Companies Act of 1862 refitted and re-adjusted the machinery of the Act of 1856, and established a new form of limited liability, namely, liability limited by guarantee, an innovation which has remained practically a dead letter. It soon, however, became apparent that this Act did not effect everything which was necessary, partly in consequence of defects in its own constitution and partly in consequence of subsequent innovations introduced by companies and their promoters. This led, in the season which has gone by, to the appointment of Mr. Watkin's Select Committee to inquire into the operation of the Limited Liability Acts, and from the recommendations of that committee sprang the bill which, with certain additions and alterations, chiefly intended for the protection of auditors, and prepared with the assistance of Sir Roundell Palmer, is now the "Companies' Act, 1867."

It was impossible, when Mr. Watkin's Select Committee presented their report and recommendations, to repress a feeling of disappointment at the meagreness, if we may use the expression, of the result of their labours. With such evidence as the committee had before them, we had hoped for a far more comprehensive report and a consequent measure of wider scope than that of the "30 & 31 Vict. c. 131." We must, however, take the measure as we find it. Its main objects are three in number. To introduce the French principle of the unlimited liability of directors. To facilitate the reduction and subdivision of the capital of companies. To improve the machinery relative to transfers, calls, and winding-up petitions, and to bestow on the county courts a winding-up jurisdiction in certain cases.

The unlimited liability of directors, which forms the distinctive principle of the *Société en Commandite*, was much advocated in this country during the late commercial and financial crisis, when the collapse of companies innumerable had rendered the words "director" and "promoter" well nigh terms of reproach. The principle of making the managers of companies as far as possible the chief sufferers by their own misconduct or mismanagement, is obviously a good one; the only difficulty lies in its application. The framers of the bill would seem to have feared that by making the unlimited liability of directors compulsory they would be deterring useful men from serving in that capacity. The Act makes it *optional* for new companies to be formed on this principle. The event may prove us to

be wrong, but it seems likely that the promoters of new companies will but seldom choose to visit themselves with so grave a liability. It is difficult to believe in the *optional* introduction of the *Société en Commandite* principle.

The provisions in the bill respecting the reduction of capital and shares are those which received the greatest alteration in passing through the House of Commons. As the bill originally stood companies were empowered to reduce their capital or sub-divide their shares by special resolution registered in the form of a minute at the Joint-Stock Companies Registration Office—prescribed notice, as the Board of Trade should direct, to be given of the proposed modification, and the opposition of a creditor to be fatal unless his claim were paid or the amount deposited in the bank. The Act comprises a very important deviation from the scheme, and requires the company to apply to the "the Court" (by petition) for a confirmation of the reduction of capital. It will thus be the business of the Court to satisfy itself that the creditors have been paid or secured, or have consented; and considering the vital moment to creditors, of the reduction of a company's capital, we cannot think that this additional safeguard, interposed by the Legislature in their behalf, is in any respect to be regretted, and we are not diverted from this view by the knowledge that this provision has given much dissatisfaction in the case of many corporations. The creditors who have trusted a company, which afforded them a certain security, have every right to object to the reduction of that security, and it is no answer to them to say that the recognition of their right will throw difficulties in the way of effecting the reduction. A few days ago, at a meeting of the shareholders of a well-known joint-stock banking company, the chairman stated to the meeting, upon the discussion of a proposal for reduction—that the new Act did not help the company at all, for that in order to reduce the liability on the shares the company would have to be "thrown into chancery," which of itself would ruin it; and also that as their creditors and debtors were widely distributed over the world, it was impossible for them to comply with the requisitions of the Act. These arguments are, we believe, a fair sample of those usually advanced on the company's side of the question. As to the first, we do not believe that the presentation of a reduction-of-capital petition would damage the credit of a company merely because it would bring the company temporarily before the Court—very probably the fact of a reduction being on foot *would* affect the company's credit, but of that the company must not complain—they cannot eat their cake and have it too. With reference to the second consideration, the difficulty of getting at a company's debtors or creditors, the answer simply is—if the company cannot manage or cannot afford, either to pay the creditor, or, if the creditor be not easily accessible, to lodge the amount of his debt in the bank, they have most undoubtedly no right whatever to reduce his security by reducing their own capital. The sections which provide machinery for carrying out the scheme of the Act in this respect are twelve in number, of these one-half or nearly so are new matter introduced into the bill in its progress through the House. The details need not be noticed here; they seem carefully worked out, and will we trust be found effective. A good deal will of course depend upon the precautions taken by the Court upon the hearing of petitions; bankruptcy and administration cases will furnish a useful analogy in this respect.

The sub-division of shares, which, as the bill was originally framed, was placed upon the same footing as the reduction of capital, has by the Act been dealt with separately, and no restriction is placed upon this alteration beyond requiring that it should be authorised by the companies regulations. This is fair enough, for the mere sub-division of shares does not affect the creditor's security. Under the Act of 1862, however, the sub-division of shares was not legal, as the

Lords Justices decided in the *Financial Corporation (Limited) case*, 15 W. R. 948 (*supra*, p. 876), hence the provision in the new Act, legalising sub-division where consonant with the companies regulations.

Our further remarks upon this Act must be postponed until another week.

THE LAW OF LIBEL.—IV.

By far the most important branch of the law of libel is that which relates to publications defamatory of individuals. Blasphemous or obscene books are comparatively rare, and the harm they are likely to do is generally remote and diffused. But words or writing affecting men's reputations are necessarily of daily occurrence, and the injury inflicted by them is obviously in modern times one of the gravest of all injuries. Unfortunately, however, though the law as to libels of a public character is unsatisfactory, the law of defamation is incomparably more so; in fact there is perhaps no single branch of our law in so utterly indefensible a condition; it is theoretically absurd, and practically mischievous.

In every libel, as we have seen, three elements may have to be considered, the form of the publication, the character of the matter published, and the motive with which it is published. In dealing with libels injurious to the public only, such as blasphemy for instance, the law, with a correct instinct, looks mainly to substance and motive, and pays very little regard to form. And yet if there be any case in which it might be permissible to lay stress upon form, and distinguish broadly between words that perish and writings that endure, it is this case, for the likelihood of injury is materially affected by the form. But defamation of individuals is very different. The character of the charges made, the degree of publicity given to them, the number of times they are repeated, may all affect both the moral guilt of the slanderer and the injury to the slandered. But men's lives are short, and their memories shorter, the causes of a prejudice are soon forgotten, though the prejudice survives, and if a man's reputation has suffered it makes no difference to him whether the attack which injured him is preserved in the back files of a newspaper or not. Yet, strangely and perversely, it is just when it has to deal with defamation of individuals that the law makes everything of form, and treats all questions of substance as quite subsidiary.

The first broad rule of law on the subject is one founded entirely upon form. A defamatory publication (and anything tending to injure the reputation of another may be said to be defamatory) is in general both an indictable offence and an actionable wrong. But if the same matter be published by word of mouth it is in no case a criminal offence, nor is it, except in a few instances to be mentioned shortly, any ground for a civil action.

The rule that written libels are indictable and oral slanders are not, is universal, yet it is utterly unreasonable. The ground on which libels are treated as offences against the State, is, in the words of Blackstone, because "every libel has a tendency to the breach of the peace, by provoking the person libelled to break it." But in the present day, at least, a libel published in a tangible form is exactly the kind of defamation which is not likely to lead, and in fact does not lead to breaches of the peace, for there are other and better remedies open. An attack in a book, or pamphlet, or newspaper, may be met with the same weapons. It is the whispered slander which never takes a tangible form, and therefore can never be contradicted, that really leads to horsewhippings.

The remaining branch of the rule, which says that oral slander shall not be actionable is, and always has been, subject to certain exceptions, founded either upon the substance of the slander, or the consequences arising from it. The exceptions which make defamatory words actionable on the ground of their substance, are,

to adopt the order of Bacon's Abridgment, "words which import the charge of a crime" (and this includes anything which would subject a man to penal consequences); "words which import the charge of having a contagious disorder;" "words which are disgraceful to a person in an office;" and words which are disgraceful to a person of a profession or trade," by imputing to him incapacity or impropriety in the way of his business. The other exception is founded upon consequences, and provides that a person slandered may maintain an action for the slander if he has suffered any special damage in consequence of it. This last exception might seem at first sight to remove the hardship of the general rule it qualifies, by giving an action to anyone really injured by a slander; but, as we shall see, it has unfortunately been rendered comparatively useless by the narrow view taken of the meaning of special damage.

The exceptions founded on the substance of the slander—imputation of crime, disease, official or professional misconduct—are even more arbitrary than the general rule itself. The difficulty, at first sight, is to imagine on what possible ground these particular slanders were chosen and all others omitted. But it appears to us that in our old books traces may be found which show that the earlier judges had a tolerably reasonable principle more or less distinctly present in their minds when they decided the cases from which the above rules are drawn, that they regarded such cases as that of a contagious disorder as only examples of a wider law, and never meant *expresso unius* to be *exclusio alterius*. Anyone who goes through the cases collected in such a book as Rolle's Abridgment will, we think, have no doubt that the older judges considered defamation to be actionable, if it either in fact did, or in the natural course of things must, injure the person defamed, by affecting him in purse or person, or by excluding him from intercourse on equal terms with his fellows. And they held written libels to be always actionable, because in those days writing was so rare an accomplishment, so much weight and importance was attached to anything written, that written defamation could hardly help affecting a man's reputation very seriously. But an English lawyer instinctively *heret in cortice*; and thus the detailed rules became stereotyped as part of the law, while all idea of any broader principle was forgotten. So entirely has all reason been lost sight of that in the present day to charge a man with having a contagious disease is actionable, because it is *likely* to exclude him from society; yet if you show that other slanderous words have *in fact* excluded him from society, this does not make them actionable, for the law takes no note of such damage.

But its utter want of principle is not the worst defect of the law on this subject. Its practical working is infinitely worse. A moment's reflection will be sufficient to show to anybody that the class of slanders which people practically have to dread most, which inflict the greatest amount of pain, which occur most frequently, and which are most likely to lead to breaches of the peace and other evils abhorred by the law, are those which charge not transgressions of the criminal law, but of the social code, the code of honour—imputations of untruthfulness, cowardice, treachery, unchastity, and the like. And yet for such slanders the law provides no redress whatever, for they are not within the list of words actionable *per se*, nor are they likely to lead to such consequences as the law contemplates under the term special damage. A very few examples will be sufficient to illustrate the working of the present law. It is actionable to say of a man that he has the measles; it is not so to say he is a liar. It is actionable to say of an officer that he does not know his drill; but if you only say that he is in the habit of racing horses and does not run them fair, that he does not pay his losses at cards, and is guilty of other dishonourable practices, he has no redress. You must not say of a country gentleman that he has omitted to repair a bridge which he was bound to

repair, for that is an indictable offence, and you must not say that when sitting as a magistrate he leans against poachers, for that is slander of him in his office; but you may go about telling that he owes money to every tradesman in the parish, that he is a cruelly oppressive landlord, that he starves his servants, and is an unkind husband. You must not say of a surgeon that he is a bad operator; but you may tell any stories you please about his private life and to the discredit of his private character. And, what is most scandalous of all, any one is at liberty to slander a woman by imputations upon her chastity to any extent he pleases; the law provides no means for preventing him from doing so, for punishing him for his offence, or for giving compensation to his victim. Lord Campbell certainly did not exaggerate when he spoke [9 H. L. C. 593] of "the unsatisfactory state of our law, according to which the imputation, by words however gross, on any occasion, however public, upon the chastity of a modest matron or a pure virgin is not actionable without proof of special temporal damage to her;" nor Lord Brougham when he said that "such a state of things can only be described as a barbarous state of our law."

Nor is the hardship of this state of the law very materially mitigated by the rule that slander becomes actionable if followed by special damage; for the law is clear that no special damage is sufficient for this purpose unless it be actual pecuniary injury, like the loss of custom by a either tradesman, or at least the loss of some temporal and worldly advantage capable of being estimated in money, as the loss of a marriage by a lady has been said to be. The mental suffering caused by a slander and the loss of the world's respect and regard is no ground of action. In fact, so far has this doctrine been carried, that in *Lyne v. Knight*, 9 H. L. C. 577, first the Irish Exchequer Chamber, and afterwards the House of Lords, were divided upon the question, whether, if a person accused a wife of adultery, and in consequence of the accusation her husband turned her out of doors, this would be sufficient special damage to sustain an action. Several very learned judges in Ireland, and Lord Wensleydale in the House of Lords thought it would not; for that the wife would only lose the pleasure of her husband's society, he would still be bound to support her, and therefore she would have suffered no loss which could be expressed in money.

THE LEGISLATION OF THE YEAR.

30 & 31 VICTORIE, 1867.

Cap. XLIV.—*An Act to amend the constitution, practice and procedure of the Court of Chancery in Ireland.*

The preamble of this Act recites "that it is expedient to alter the constitution and amend the practice and course of proceeding in the High Court of Chancery in Ireland, with a view to establish uniformity of practice and procedure in the Courts of Chancery in England and Ireland, and to make provision for the receipt of fees of the Court of Chancery in Ireland by stamps, and to give increased power over funds in that court, the dividends of which have not been dealt with for a certain period."

It would be unnecessary here, and perhaps tedious to our readers on this side of St. George's Channel, to comment at length upon the provisions of this very important Act. Year by year the Legislature continues to carry on the process, long since thought advisable, but only recently commenced, of mutually assimilating the practice of the superior courts of England, Scotland, and Ireland. In course of time it will benefit practitioners to know that the practice they are accustomed to use is in use in other divisions of the realm, and it will also be a further benefit that the decisions of one Court will be based upon the same rules of law and practice as those of another. The "uniformity in practice and procedure" established by this Act will doubtless prove as serviceable to the country at large as to members of the legal profession, and will help to bring about a time when the

jurisdictions of the Courts of England, Scotland, and Ireland, shall be, if not exactly concurrent, yet shall cease to be, as they now are in most cases, foreign to each other.

Cap. XLV.—*An Act to extend and amend the Vice-Admiralty Courts Act, 1863.*

Several omissions of the Act of 1863 are supplied by this Act. Section 4 provides that when the governor of a British possession, who is also a vice-admiral thereof, vacates the office of governor, the office of vice-admiral shall be also vacated. By section 5 the judge of any Vice-Admiralty Court may, with the approval of the governor, appoint deputy-judges, who shall exercise all the judicial powers of the judge, and who may sit separately or together, with the judge himself. Upon the judge vacating his office, the appointment of deputy-judge shall not determine.

By the 15th section it is enacted that all persons entitled to practise as advocates, proctors, attorneys, or solicitors, in any of the superior courts of a British possession, shall be entitled to practise in their respective capacities in the Vice-Admiralty Courts of the same possession.

Power is given by section 16 to her Majesty to establish Vice-Admiralty Courts in any British possession, notwithstanding such possession may have previously acquired independent legislative powers, and by the same section the jurisdiction of all existing Vice-Admiralty Courts is confirmed.

The limitation of time for appealing, as fixed by the Vice-Admiralty Courts Act, 1863, is extended by the 18th section to Vice-Admiralty Courts in India.

The matters of detail here dealt with supply what has hitherto been discovered to be wanting in the Act of 1863, but no assurance is afforded that every three or four years a similar short Act will not be required. This is the kind of legislation which creates so much confusion in the statute law, and one of the principal results of which is that it has endless powers of reproduction. Surely some plan might be devised to prevent the amendment of a statute from being a step to further alterations creating confusion and giving infinite trouble to those who desire to ascertain the whole law on a given subject. Codification would go far towards the attainment of so desirable an object.

Cap. XLVII.—*An Act to amend the Companies Act, 1862, and also the Act passed in the session held in the twenty-third and twenty-fourth years of the reign of her Majesty, intitled on an Act to simplify and amend the practice as to the entry of satisfaction on Crown debts and on judgments.*

The 114th section of the Companies Act, 1862 (25 & 26 Vict. c. 89), enacts that a petition for winding up shall constitute a *lis pendens* within the terms of the Act 2 & 3 Vict. c. 11, provided it be registered according to the provisions of that Act.

Section 1 of this Act simply repeals the 114th section of the Companies Act, 1862, and section 2 provides for the vacating of a *lis pendens* when the person who registered it refuses his consent. When the Court, before whom the property sought to be bound is in litigation, is satisfied that the litigation is not *bona fide*, it may make an order vacating the registration of the *lis pendens*, and may in its discretion direct the person who registered the *lis pendens* to pay all the costs. This order may be entered in the usual way as a discharge of the *lis pendens*.

Wherever the consent to vacate the registration of a *lis pendens* is improperly withheld, the operation of this short Act will be found useful.

Cap. XLVIII.—*An Act for amending the law of auctions of estates.*

The conflict of law and equity, which this Act was passed to put an end to, consisted in the fact that at law a sale of land by auction was invalid where the

owner employed a person to puff up the price for him and that in equity it was not so in every case. As Lord Cranworth remarked, in *Mortimer v. Bell*, 14 W. R. 68, L. R. 1 Ch. Ap. 10, the current of authorities has been very strong in favour of allowing a vendor to employ one bidder in his own behalf: it is noticeable, however, that in this case his Lordship observed that there was no authority absolutely binding him to decide that the common law rule did not hold good in equity. Two or more puffers bidding against each other have been disallowed in equity as well as at law. The present statute settles that the vendor is not to employ a bidder in his own behalf, an enactment which will practically put a stop to a custom which had become almost a regular institution, and which will be more honoured in the breach than the observance. It will also tend to diminish litigation, since the authorities alluded to by Lord Cranworth, in the case cited, left very many doubts open for the benefit of a purchaser determined to throw up his bargain if possible. But to the Act; section 1 provides that where, by reason of a puffer being employed, such a sale is invalid at law, it shall also be deemed invalid in equity.

Section 2 requires that all conditions of sale shall state whether the land is sold without reserve or subject to a reserved price, or whether a right to bid is reserved, and in case it be sold without reserve it shall be unlawful to employ a person to bid or to take a bidding from a person so employed.

Section 7 abolishes the objectionable practice of the Court of Chancery of opening the biddings; but sales under the authority of that court are not to be otherwise affected by the Act. Although the Court was always guided by something like a rule in exercising this its power, yet, while it always used caution in doing so, there was practically no limit, provided the advanced price offered were sufficiently tempting in its amount. As a security to purchasers of estates sold by the Court, the 7th clause would prove advantageous. It was formerly impossible for a purchaser to tell whether the sale to him would be confirmed, or whether some disappointed bidder would not intervene between him and his bargain. This will no longer be the case. A sale will only be upset on the ground of fraud, and in that case the judge may order the land to be resold upon such terms as to costs as he may think fit.

Cap. LIX.—An Act for further promoting the revision of the statute law by repealing certain enactments which have ceased to be in force or have become unnecessary.

Our remarks on this Act appeared last week* and a description was then given of the style and quantity of rubbish it sweeps out of the statute book.

Cap. LXII.—An Act to abolish a certain declaration, commonly called the declaration against transubstantiation, the invocation of saints, and the sacrifice of the mass, as practised in the Church of Rome; and to render it unnecessary to take, make, or subscribe the same as a qualification for the exercise or enjoyment of any civil office, franchise, or right.

Some ancient usages become unnecessary by reason of the circumstances under which they were first instituted being changed as time wears on, some become out of date simply by effluxion of time, and some by reason of increased civilisation and the spread of educational enlightenment. Two at least of these causes have combined to render the declarations against transubstantiation as used in England and Ireland, prescribed by the Acts 30 Car. 2, stat. 2, c. 1, and 3 W. & M. c. 2 (Eng.), not only contrary to the spirit of the age, but also altogether useless for the purposes for which they were intended, or to prevent the dangers against which they were originally aimed.

Section 1 abolishes the compulsory use of the declaration, the English and Irish forms of which are set out in

a schedule, as a qualification for the exercise of any office, &c.; and section 2 declares that Roman Catholics are not by this Act to be enabled to hold any office from which they are now excluded.

Anyone who will take the trouble to peruse the form of the declaration now set aside will perceive that its terms are decidedly insulting to a very large section of our fellow-subjects. The present enactment is a successor of many other measures which the modern spirit of toleration has dictated. The Roman Catholic emancipation measures have placed the professors of that faith in a position hardly recognisable when compared with that which they occupied a century ago and less. This Act furnishes another instalment of a series of legislative enactments aimed, not at the advantage of any particular class of religionists, but at the general promotion of religious tolerance.

RECENT DECISIONS.

EQUITY.

EQUITABLE JURISDICTION OF COUNTY COURTS.

Wilcox v. Marshall, V. C. S., 15 W. R., 333.

All who are familiar with the statutes will know that misprints and omissions are by no means rare. The Act for extending equitable jurisdiction to county courts (28 & 29 Vict. c. 99) was not free from this defect. By clause 4 of the first section, jurisdiction is given to those courts "in all suits for specific performance, or for the delivering up or cancelling any agreement for the sale or purchase of any property, where the purchase-money shall not exceed the sum of five hundred pounds." Reading this in connection with part of section 10, which directs in what court "proceedings for the specific performance, or the delivery up or cancelling of agreements," shall be taken, and which was obviously intended to correspond with clause 4, it can hardly be doubted that the agreements referred to in the last section are agreements for purchase and sale only, and that the word "of" has by mistake been omitted after the words "specific performance" in section 1. There seems also to be a good reason why the jurisdiction should be confined to agreements of this class, as the only cases in which a limit of value could be ascertained without difficulty. However, it has been decided in *Wilcox v. Marshall*—and as there is no appeal from that decision, we must take it to be established—that the powers of the county courts extend to enforcing, not only agreements for leases, but agreements of any kind, subject to the duty imposed on the judge by section 9 of directing the proceeding to be taken in a higher court, if the subject-matter exceeds the limit in point of amount to which the jurisdiction extends. As, according to the Vice-Chancellor's construction, no limit is imposed except in the case of agreements for purchase and sale, we do not see how section 9 can be material; but if it can be safely contended that, from the general scope of the Act, no suit can be prosecuted in the county courts where the subject-matter exceeds £500, the difficulty of ascertaining the value remains the same, a difficulty which we think the Legislature intended to avoid.

The 9th section of the recent County Courts Act Amendment Act, 30 & 31 Vict. c. 142, has enacted that the equitable jurisdiction conferred by section 4 of the 28 & 29 Vict. c. 99, "may, from and after the passing of this Act, be exercised in all suits for specific performance of, or for the reforming, delivering up, or cancelling of any agreement for sale, purchase, or lease of any property, where, in the case of a sale or purchase, the purchase-money, or in case of a lease, the value of the property, shall not exceed £500." The decision of the Vice-Chancellor in *Wilcox v. Marshall*, that the county court has jurisdiction in suits for the specific performance of sale contracts or agreements for leases where the value or subject-matter is not over £500, is thus ratified. All difficulty, however, is not entirely

removed by this recent enactment, for the wording of section 4 of the original Act, as construed by the Vice-Chancellor, gives the county court equitable jurisdiction in all specific performance cases where the subject-matter does not exceed £500 in value; and the recent enactment does not contract this unintentionally and inconveniently wide jurisdiction, but, on the contrary, merely enacts that the jurisdiction "may" be exercised in the cases therein specified, without saying that it may not be exercised in any others.

RIGHT OF SECURED CREDITOR TO PROVE FOR HIS DEBT ON FAILURE OF THE SECURITY.

Ex parte Peake. Re Brodie, L. J., 15 W. R., 702.

The rule that a secured creditor cannot prove for his debt without giving up his security, and the provisions enabling him to have his security sold and the proceeds applied towards payment of his debt, and to prove for the balance, are amongst the more obvious portions of our bankrupt law, but that a secured creditor may first stand on his security, and afterwards, on its failure, come in and prove, as the Lords Justices in the above case have held he may, we do not find anywhere distinctly stated, although it is clear that while proof is to be deemed an election to give up the security, there is no corresponding provision that failure to prove is to be deemed an election to stand on the security.

The circumstances were, insolvency in 1837, and proof on the failure of the insolvent's contingent reversionary interest in 1866. Of course where, as under the present law of bankruptcy, the order of discharge is final, and usually not long delayed, such a case is not likely to occur, and it will seldom happen that a creditor will be able to exercise the right above mentioned; but if the next Bankruptcy Act should make the after-acquired property of the bankrupt subject in some degree to his debts incurred previous to his discharge, as it probably will, cases of the kind may arise. Although the hardship on other creditors is perhaps more apparent than real, we think it would not be unfair that a secured creditor should be allowed a certain time to elect whether he would come in under the bankruptcy or not, and that on the expiration of that time he should, not having proved, be held to have relied on his security only.

PLEA OF REFERENCE TO ARBITRATION.

Cooke v. Cooke, V.C.W., 15 W. R. 981; 4 L. R. Eq. 77.

An arbitration clause is so constant an element in all important contracts that it is somewhat remarkable to find that its effect on the right of action or suit in respect of the contract in which it is contained, is still, on some points, open to discussion. If an award has been made under it covering the matters in dispute, the parties will be bound thereby, and a plea of the award to an action or suit on the agreement would be allowed, but there has been some conflict of authorities as to whether the pendency of the reference, the submission having been made a rule of one court, would or would not oust the jurisdiction of another competent court to entertain an action or suit for a breach of the contract, or would constitute any ground of defence to such proceedings. A comparison of these authorities has led the Vice-Chancellor to decide, in *Cooke v. Cooke*, that the jurisdiction of such court will not be so ousted, and that the enabling provisions of the Common Law Procedure Act, by which greater facilities are given to the arbitrators under such a reference, and greater powers of enforcing the award given to the parties, do not, in the absence of an express declaration in that Act, affect the question of jurisdiction. The reason may not at first sight appear why, as the award when made will be a good defence, the same effect should not be given to the reference; and if an award were a necessary consequence of the latter, the distinction could hardly be supported, but, as the Vice-Chancellor observed, the pending reference might never come to anything, and there was no power in the Court of compelling the arbitrators or umpire to come to a deci-

sion. It must be noticed that in this case the question came before the Court on a plea to the jurisdiction, and it does not follow from the decision that the Court would not have granted an application to stay proceedings under the 11th section of the Act above mentioned, which enacts as follows:—"Whenever the parties to any deed or instrument in writing shall agree that any then existing or future differences between them shall be referred to arbitration, and any one of the parties so agreeing shall nevertheless commence an action at law or in equity against the other party or parties in respect of the matter so agreed to be referred, it shall be lawful for the Court, in which the action or suit is brought, or a judge thereof, on application by the defendant, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement, and that the defendant was, at the time of bringing such action or suit, and still is, ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, to make a rule or order staying all proceedings in the action or suit, on such terms as to costs and otherwise, as to such court or judge may seem fit." We have stated this section at length, because the provisions contained in it deserve attention. Courts of law have frequently acted upon it. We cannot give an instance of a court of equity exercising the power thereby conferred, and the case of *Croskey v. European and American Steam Company*, 8 W. R. 406, shows some disinclination to do so, but we doubt whether any direct application under it has ever been made to such a court, and we venture to hope that, if made, it would, in a proper case, be acceded to. The result of litigation, even in the courts of equity, is often a compromise, and where the parties have chosen a *forum domesticum*, which, by the aid of the provisions of the Act above mentioned, is, in most cases, a perfectly competent one, we do not see why the time of the public Court should be spent in discussing matters on which no decision is ultimately given.

With reference to a suggestion that, on the authority of *Halfhide v. Fenning*, 2 Bro. C. C. 336, the presence of a covenant not to sue in the agreement for submission might make a difference, and withdraw the matter from the ordinary tribunals, the doubt expressed by Vice-Chancellor Kindersley, in *Lee v. Page*, 9 W. R. 754, whether the addition of such a covenant would not, on that very account, be void as against public policy, deserves consideration. In *Wood v. Robson*, 15 W. R. 756, there was such a covenant, but the decision there turned on the relief prayed not being covered by the arbitration clause nor intended to come within it, the clause in question, which was in a partnership deed, referring to disputes relating to the partnership, and the bill praying for a dissolution and realization of the assets.

COMMON LAW.

PRINCIPAL AND AGENT—FRAUD—CONTRACT.

Proudfoot v. Montefiore, Q. B., 15 W. R., 920.

We noticed the case of *Barwick v. English Joint-Stock Bank* a short time ago (*ante*, S. J. 1021), and in discussing that case we had to make some remarks upon the liability of a principal for the fraud of his agent in making a contract in the ordinary course of his employment. The decision in *Proudfoot v. Montefiore* is another illustration of what we then pointed out, that a principal is liable for his agent's fraud, notwithstanding that the contrary has sometimes been supposed to be the law. The question arose in this case we are now commenting upon in rather a remarkable manner. An agent abroad purchased for his principal (the plaintiff), resident in England, a cargo of madder, and shipped it in a vessel to England. The vessel was wrecked shortly after she started, and the cargo was entirely lost. The agent, by the next post after he had received this news, wrote to the plaintiff, informing him of the loss, expressing a

hope that the plaintiff had insured this cargo, and concluding with these words—"I did not dare telegraph to you, for when once you had the intelligence in hand you were prevented from insuring." The plaintiff, before receipt of the letter, and perfectly *bona fide*, entered into an agreement with the defendants for effecting a policy of insurance upon this cargo. Before the policy was completed news arrived of the loss of the cargo, and the defendants refused to grant the policy, on the ground that there had been a fraudulent concealment from them of the fact of the loss of the goods which the plaintiff desired to insure. The question was not entirely free from difficulty, because the conduct of the plaintiff in entering into the agreement upon which the action was brought was perfectly *bona fide*, and it might at first sight appear somewhat hard on him to deprive him of the benefit of an agreement which he had fairly made. On the other hand, the conduct of the agent was clearly fraudulent. In order, as he thought, to enable his principal to effect a legal insurance, he withheld information which, if it had been communicated, the principal would have been bound to impart to the defendants.

The Court decided quite in accordance with the principles laid down in *Barwick v. English Joint-Stock Bank*, that the plaintiff was not entitled to maintain this action, as he must be considered, for the purposes of the agreement in question, to have been, at the time it was entered into, in the same position as he would have occupied if his agent had done his duty. In the words of the judgment in this case, "if an agent, whose duty it is in the ordinary course of business to communicate to his principal information as to the state of a ship or cargo, omits to discharge such duty, and the owner, in the absence of information as to any facts material to be communicated to the underwriter, effects an insurance, such insurance will be void on the ground of concealment or misrepresentation." And the Court then clearly lays down the rule that the insurer is entitled to assume, as the basis of the contract of insurance, that the latter will communicate to him every material fact of which the assured has, or in the ordinary way of business ought to have, knowledge, and that the insured will also take the necessary measures to obtain, through the ordinary channels of intelligence, all due information as to the subject-matter of the insurance. Of course this decision depends upon the fact that, under such circumstances as those in this case, the use of the telegraph is the usual and ordinary way of communicating between principal and agent. The Court says—"Looking to the now general use of the electric telegraph in matters of mercantile interest between agents and their employers, we think it was the duty of the agent to communicate to his employer by this speediest means of communication." It by no means follows, however, from this decision that an agent is always bound to make use of what may be the most rapid method of communicating with his principal, where that way of sending information is not the one in ordinary use.

We cannot omit, in conclusion, to remark how salutary an effect this decision is likely to produce in the conducting of mercantile affairs. If the decision had been the other way, there would have been a direct inducement for agents to be guilty of fraudulent conduct in cases of this nature, whereas, at present, there is no benefit whatever to be derived from the concealment of facts, but, on the contrary, such conduct is likely to be productive of harm rather than good to those on whose behalf it is attempted.

REVIEW.

The Practical Conveyancer. By ROLLA ROUSE, Esq., of the Middle Temple, Barrister-at-Law. Third Edition. London: Butterworths.

It is now nearly two years since in our second volume we reviewed a former edition of Mr. Rouse's manual of conveyancing; that the work has found favour with the profession

is proved by the fact of our now having to review a third edition. So long a time having elapsed since our former notice, it may be well for us again, for the benefit of those readers who are strangers to the work before us, to describe its system and mode of dealing with the subject of conveyancing.

The characteristic of the work and the peculiarity by which it is distinguished from other collections of conveyancing precedents is the giving of the precedents in skeleton form, the clauses being shortly described and entitled *seriatim*, with an appended reference to another portion of the work in which precedents of recitals, provisos, covenants, &c., of all kinds are set out at length. The first volume is devoted to these skeleton precedents, in the second are found the clauses with which they are to be filled in. In our notice of a former edition (2 Sol. Jour. 786) we extracted a specimen of one of Mr. Rouse's skeleton precedents, with its accompanying references. Our space does not permit of our doing so in the present notice; but the reader who has not seen the work will understand the plan, and we may add that there is no difficulty in finding the various precedents referred to in the skeleton.

This method of skeleton precedents appears to us to be attended with important advantages. Space, of course, is saved; but, besides this, there is the still more important consideration that the draftsman is materially assisted to a bird's-eye view of his draft. Every one who has done much conveyancing work knows how thoroughly important, nay, how essential to success, is the formation of a clear idea of the scope and framework of the instrument to be produced. To clerks and other young hands a course of conveyancing under Mr. Rouse's auspices is, we think, calculated to prove very instructive. As a book for practice, the work is adapted rather for the solicitor than for the barrister. The conveyancing barrister finds all he wants in the row of volumes which he calls his "Davidson," and for much of the work which he receives from his clients the present volumes (though serviceable in the absence of other aid) would be found hardly sufficient. To the solicitor, especially the country practitioner, who has often to set his clerks to work upon drafts of no particular difficulty to the experienced practitioner, but upon which they, the said clerks, are not quite to be trusted alone, we think, to such gentlemen, Mr. Rouse's collection of precedents is calculated to prove extremely serviceable.

Besides the actual conveyancing precedents, there are scattered over the book a few notes for the guidance of the draftsman, these, it is true, are not very numerous, but one cannot expect everything in a two-volume work. The present edition contains a very important addition to the former ones, viz., a collection of precedents of wills; 116 pages are devoted to this important subject, and thirty of these are devoted to a short but useful *resumé* of the law bearing on the subject. This, we are sorry to see, does not bear evidence of quite enough care. Indeed, it contains one serious blunder. On the authority of *Lechmere v. Broderidge*, 11 W. R. 315, and another case, the intending draftsman is informed that a wife cannot by will dispose of real estate limited to her in fee simple for her separate use. Those who purchase this edition must not fail to note in the margin of page 2 of the second volume the fact that the Court has held the contrary, *Lechmere v. Broderidge* having been overruled by *Taylor v. Meads*, 13 W. R. 394. In this part of the work a couple of pages are devoted to "Practical suggestions for preparing wills." These we commend to the young practitioner, or, indeed, to any solicitor liable, as all are, to be called in at any moment to receive instructions for a will, upon an emergency.

A few pages appended to each branch of the subject, similar to the thirty pages we have just mentioned as tacked on to the portion on wills, would have made the work more serviceable, and if this be done in the case of wills, why not in the case of mortgages, leases, powers of attorney, &c.? The addition of notes upon every branch would have necessitated a third volume, but this, we think, would have been preferable to the present inconsistency of appending in one case and withholding in all the others.

At the end of the second volume is an abstract of the more important statutes with which the draftsman should be acquainted—such as the Trustee Acts and the statutes respecting Leases and Sales of Settled Estates, Conveyances by Married Women, &c., &c. These will, of course,

be useful, but would have been all the better for a few notes. We repeat, in conclusion, that solicitors, especially those practising in the country, will find this a useful work.

COURTS.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner HOLBOYD.)

Sept. 7.—*Re J. W. Perkins.*—This was an application for release. The debtor, after being arrested, had executed a deed which was duly registered, the conditions specified in the 192nd section of the Bankruptcy Act, 1861, having been duly complied with, and the certificate of registration of the deed, which, under the 193th section, is to be available to the debtor for all purposes as a protection in bankruptcy, was then issued. Application was thereupon made to the Court out of which the process issued for the debtor's release, when Mr. Justice Willes expressed an opinion that the Court of Bankruptcy was the proper tribunal to apply to, and the case, accordingly, came before the learned Commissioner for adjudication.

Mr. Darville (Walmisley, Dowse, & Darville) appeared in support of the application.

THE COMMISSIONER, after consulting the numerous authorities upon the subject, came to the conclusion that the 1st section of the Act of 1861, coupled with the 193th, gave the Court of Bankruptcy jurisdiction to deal with the application. The court out of which the process issued no doubt possessed jurisdiction, but he thought that in questions of this nature it was more convenient to apply to this Court. The 1st section enacted that the Court of Bankruptcy should have and exercise, for the purposes of the Act, all the powers and authorities of the Superior Courts of law and equity; and the 193th section enacted that after such a deed as that specified in the 192nd section had been registered no process, other than that by writ or warrant, which may be had against a debtor about to depart from England, should be available without leave of this Court. Looking at the jurisdiction which was conferred upon this Court under this section, he thought he had the power to prevent a debtor being kept in custody who had executed a deed which was binding upon the Court at whose suit he was detained. That being so, he considered that, irrespective of the provision of the 113th section of the Bankrupt Law Consolidation Act, 1849, the 1st and 193th sections of the Act of 1861, authorised him to entertain the application, and, as the conditions of the 192nd section had been complied with, he should order the debtor to be discharged out of custody.

Application granted.

GENERAL CORRESPONDENCE.

COUNCILS OF CONCILIATION ACT.

Sir,—I heartily endorse your remarks as to the weak points in the above measure. Will you permit me to point out another which is very manifest, if there be no error in your analysis of the Act, which I think is very unlikely. You write "The council thus formed is to have jurisdiction in the same kinds of disputes as those provided for in the earlier Act, if submitted to them by both parties, and in any other dispute or difference by mutual consent." I have italicised some words in this passage in order to indicate the defect to which I beg to call attention. The Act of 5 Geo. 4. provided that in case of disputes between master and workmen of the kinds enumerated, *either party* might apply to a justice of the peace for an arbitration or reference. The justice was thereupon to name a certain number of persons, half of them masters and half workmen out of whom one was chosen by each party, and the two thus chosen were to be the referees whose award was to be final and binding. Now why was not power left to *either party* under the new Act to put the Council of Conciliation in motion for the settling of such disputes as it authorises them to settle, when their authority is invoked? It is, surely, clear that, if the concurrence of *both parties* is necessary to found the jurisdiction of the Councils of Conciliation, the bodies will have very little to do, supposing that many or any of them will be formed, which is, perhaps, taking a great deal for granted. Will any one believe for an instant that in any

disputes where the interests of masters generally or of workmen generally are involved, the portions of the Council composed respectively of masters and workmen will not support their respective interests? Then as the number of each must be the same in every Council, it is clear that practically the decision in such cases would rest with the chairman. And is it more likely that both parties should submit the matter in dispute to his arbitrament than they would to any other intelligent and honourable man unconnected with the trade? It may be said he will be of their own choice. Yes, the choice of the majority of the members of the Council, but that may not be the choice of *either* much less of *both* of the parties. From these considerations I think it would be too sanguine a disposition that would lead one to predict any very important results from the formation of such councils if they should be formed in many instances, with the probabilities of which you have dealt in a spirit of evident scepticism. PUBLICUS.

THE SYSTEM OF LOCKING RAILWAY CARRIAGES.

Sir,—Your correspondent, "Conveyancer," has started a very nice question, viz., as to the authority of railway companies to lock persons into carriages. He contends that such a practice, even though sanctioned by a company's bye-laws, is *ultra vires*, and therefore derives no legality from such a sanction. He reasons that "*prima facie* it is clear that it would be false imprisonment to lock any person into a carriage against his will," and he has "yet to learn that any railway Act has authorised the practice."

The question, though a nice and interesting one in point of law, is not, however, likely materially to affect the interests of the public or of railway companies, or to vary other practices. It seems to me pretty clear that, to lock a person into a railway carriage, or to leave him locked in it while it is stationary, *against his will*, is false imprisonment. But it is difficult to see how such a case would be likely to start up for serious litigation. I think that before the locking a person into a carriage would be held to be a false imprisonment in law there should be an expressed unwillingness on the part of a passenger to be locked in, because there is a presumption arising from the circumstances, and particularly from his having taken his seat in a carriage announced to go in a particular direction, that he wishes to go in that direction, and for that purpose intends remaining in the carriage at least till he reaches the next station, when the carriage is again opened. This presumption existing when the carriage door is locked, it is also presumable it is *not locked against his will*. It may as well be said that if A. flies to B. for protection, and B. locks up A. in a room for the purpose of affording protection, B. is amenable to an action for false imprisonment. And why should he not? Simply because as in the former case there is the presumption arising from the circumstances that the locking-up is not against the will. Therefore, it is necessary that a person should express his unwillingness, *in order to rebut that presumption*. But now supposing a passenger does object to being locked up. Then the officer will either yield to the objection or he will not. In the former case no action could arise; and it is very likely that if the practice was once pronounced illegal, every officer would be instructed to yield to such objections. Supposing, however, the officer locks the door notwithstanding the objection. What then? The passenger can bring his action and be rewarded with very probably one farthing damages. A few wealthy and public spirited individuals may do this, but it is not likely that many more of the British public would imitate their example. So that the thing would very probably soon come to very little.

I have said advisedly that it would be a false imprisonment to keep a person locked in a railway carriage *while it was stationary*; for I do not think any court would hold it to be a false imprisonment to restrain a person from leaving a carriage while in motion, any more than it would hold it to be false imprisonment to detain a person endeavouring to plunge over a terrible precipice, or precipitate himself into a mine shaft, bent on self-destruction. It is the duty of every man to prevent acts destructive or dangerous to human life, so far as he is able. The neglect of that duty would be criminal, and the performance of it necessarily suspends for a time the civil obligation of not interfering with the personal liberty of another.

However, I entirely concur in the soundness and accu-

racy of your correspondents remarks so far as they go; and as one your readers I have to thank him for starting a very nice question.

PRACTICAL.

APPOINTMENTS.

Mr. ARSCOTT BICKFORD COURTENAY COHAM, of Hols-worthy, in the county of Devon, to be a Perpetual Commissioner for Taking the Acknowledgments of Deeds to be executed by Married Women, in and for the county of Devon.

Mr. WALTER MEACOCK WILKINSON, of Kingston-upon-Thames, in the county of Surrey, to be a Perpetual Commissioner for Taking the Acknowledgments of Deeds to be executed by Married Women, in and for the county of Surrey.

Mr. CHARLES AMOS LISTER, of Salford, in the county of Lancaster, Gent., to be a Perpetual Commissioner for Taking the Acknowledgments of Deeds to be executed by Married Women, in and for the county of Lancaster.

Mr. WILLIAM CHARLES LACY has been elected Clerk to the Wareham Turnpike Trust, vice Mr. T. Phippard.

Mr. FREELAND FILLITER has been elected Town Clerk of Wareham, vice Mr. C. O. Bartlett deceased.

FOREIGN TRIBUNALS & JURISPRUDENCE.

AMERICA. COMMON PLEAS OF DAUPHIN.

Frazer v. Shelley's Executors.

1. Where individuals, who style themselves "the building committee" of a "Bethel," whether the same be incorporated or unincorporated, execute an obligation individually and not stating their representative capacity, they are liable personally to the obligor for the amount of the note.
2. Where one of such joint obligors has paid the whole of said amount, he has a right to recover from the legal representative of a deceased co-obligor his contributive share.

The case was this:—Isaac Frazer and Michael Shelley, and two others, styling themselves "the building committee of Goldsborough Bethel," executed their joint obligation to one Mills Hays, for the sum of 700 dols., payable six months after date, with interest, and signed and sealed the same. Suit was brought by the administrators of the obligor against Frazer and the two others, who survived Shelley—judgment was recovered and Frazer paid judgment and costs. An amicable action was entered, and case stated, in the Court of Common Pleas of Dauphin county, between Isaac Frazer as plaintiff, and the executor of Shelley as defendant, in which Frazer sought to recover the one-fourth part of the amount so paid by him from the estate of his co-obligor.

Mumma, for the defendant, contended, 1st, that there was no personal liability of the obligors, the debt being the debt of the Bethel—and 2nd, that the cause of action did not survive to the plaintiff against the executor of his co-obligor to recover the contribution.

Cochran and Hay (of York,) for plaintiff.

The case was submitted to the court on the record, and written arguments of counsel.

Opinion by PEARSON, P.J.—The object of the present action is to obtain contribution from the estate of Michael Shelley, on account of the payment made by Isaac Frazer, of the whole amount of a single bill, in which they were jointly bound. The objection to a recovery is twofold. It is said that there was no personal obligation on the part of Shelley, Frazer, or any signer of the instrument, to pay the bond—that it was not their individual obligation, but given in a mere representative capacity as agents, binding on the principal but not on themselves, and what Frazer paid was in his own wrong; and, second, the estate of Shelley is discharged by his death, and cannot be obliged to contribute. The single bill is in these words:

"700dols.—Six months after date, we, the building committee of Goldsborough Bethel, promise to pay Mills Hays the sum of 700dols., with interest from date, for value received. Witness our hands and seals, this 3rd day of April, 1858," signed by Isaac Frazer, Michael Shelley, and two others, under their hands and seals.

We are unable to consider this anything else than a mere personal obligation, for although these men call themselves "the building committee of Goldsborough

Bethel," they promise to pay in their own names. They do not even say, "We as building committee promise," &c. They affix their own seal, not that of their principal. They do not say, "for the Goldsborough Bethel," and sign. The obligation is not binding on the Bethel, but on themselves. Saying "building committee" is a mere description of their persons, and is not as strong in their favour as *Tassey v. Church*, 4 W. & S. 346, where the person accepted as administrator, yet it was held to bind him individually.

Among the early English cases on this subject is that of *Appleton v. Binks*, 5 East, 148, where the person describing himself as agent for another, covenanted that the principal should do certain acts, and it was held that the agent was personally liable. Even in the case of a simple contract, which is not so strong as that of a sealed instrument, it was held in *Norton v. Herron*, 1 Car. & P. 648, that where the agent was described in the beginning as making the contract on behalf of another, but in the subsequent part bargained as if on behalf of himself, he was personally bound. So where the solicitors of a party promised as solicitors to pay certain rent, it was held that they were liable individually: *Burrell v. Jones*, 3 B. & Ald. 47. Many of the cases are collected by Addison in his work on Contracts, pp. 962-3, and this principle laid down, that where the members of a committee contract they do not bind the subscribers at large, or give a tangible person against whom the creditors may proceed, but they are themselves the only persons to be sued, and are principals in the transaction, see 7 Bing. 705; 5 M. & P. 735; 5 C. & P. 65. It is pretty clear that the Goldsborough Bethel was not bound here. It never signed or affixed its seal, and we have the principle established on abundant authority in *Bellas v. Hays*, 5 S. & R. 427, that if an agent sign and seal a deed in his own name it does not bind his principal; consequently, if any one is bound, it must be himself. The case is defectively stated in not describing the character of this "Bethel," whether an incorporated or unincorporated church or company, or even whether any such building did or did not exist; but from our view of the contract that question is unimportant. This subject has undergone considerable investigation in the state of Massachusetts, and to the decisions of the Supreme Court of that state we can generally appeal with confidence. In *Simons v. Hurd*, 23 Pick. 120, it is held that if an agent describe himself as such, yet promises in his own name to pay, he will be held. At p. 125 it is said, "Although an agent is duly authorised, and although he might avoid personal responsibility by acting in the name and behalf of his principal, still if by the terms of his contract he binds himself personally and engages expressly in his own name to pay or perform other obligation, he is responsible, although he describes himself as agent." For this, numerous authorities are cited. The party must stipulate for his principal by name, stating his agency in the instrument he signs, and if he have authority to sign, and does not sign as agent or attorney, he binds himself and no other person, 11 Mass. 29, *Stackpole v. Arnold*. So where a bill of exchange was drawn by an agent in his own name, it was held that he was personally liable, although the drawees knew that he was acting as an agent. "It is a general principle that the signer of any contract, if he intends to prevent a resort to himself personally, should express in the contract the quality in which he acts, otherwise he does not bind the person who employs, and necessarily binds himself:" *Mayhew v. Prince*, 11 Mass. 54-55. So where the members of a corporation signed a note without annexing to their names words to show they signed for the corporation—held, to be their individual note: *Bradlee v. Glass Manufacturing Company*, 16 Pick. 347. In *Pickard v. Nye*, 2 Metcalf, 47, we have both parts of this case decided. The makers of the note recited, "We, the subscribers, trustees for the proprietors of a new meeting house," &c., signed it in their own names without addition or other qualification, and it was held to bind the signers, and not the proprietors of the house—also, that on the death of one, his representatives could be sued for contribution by the survivor, who had paid the whole. So in Kentucky,—"If an agent in contracting for his principal's benefit, promises to pay in his own name, he is bound;" 4 Munroe, 535. Probably the only exception to these general principles is the case of an agent for government, who, stating his agency, contracts in his own name, and it is held that he is not individually liable. It is not even said in this special verdict that the signers of the obligation were agents, or had any authority to contract for the Bethel—and it cannot be inferred. Nothing can be

taken by intentment. They, therefore, must necessarily bind themselves.

That the estate of a co-promisor in a joint note is not discharged from liability by his death is settled by our Supreme Court in *Bowman v. Kistler*, 9 Casey, 106, and *Miller v. Reed*, 3 Casey, 244. They come within the provisions of the Acts of April 6, 1830, and April 11, 1848, and as both are liable to the creditor, when one pays the whole, the estate of the other must contribute. See 2 Metcalf, 47, already cited. The estate of the decedent is not discharged from liability, either to the original creditor, or his co-obligor, who stands in his situation by payment. We, therefore, render judgment in favour of the plaintiff in the case stated, for the amount stipulated.

DISTRICT COURT, PHILADELPHIA.
Mahoney v. Railroad.

The negligence of a person having a child in charge, but without authority of its parents, is not a defence to an action by the child.

New trial.

Opinion by SHARSWOOD, P. J.

We think there was evidence of negligence in the servants of the defendants sufficient to justify the verdict. It is not necessary here to say whether a mere scintilla is enough. On that point the finding of the jury is approved by the judge before whom the trial was had.

The question then reserved is simply this, assuming negligence on the part of the defendants, whether the negligence of a person who, without express authority from the parents, but as an act of kindness, takes charge of an infant child, contributing to the injury, is any defence in an action by the child? In this instance the unfortunate woman who laid hold of the child to carry it across the tract of the railroad, and who lost her own life in the attempt, was the aunt of the plaintiff. The plaintiff did not reside with the aunt, and no evidence was offered to show any authority in her. If, however, this was an action by the father to recover damages for the death of the child, a very different question would be presented. It would most probably be held that it was negligence to suffer such an infant to be on the streets without a care taker, and he could not hold the defendants responsible, whether he had appointed a care taker who was negligent or left the child to roam at large without one. To a child of plaintiff's years no contributory negligence can be imputed. Neither is the plaintiff precluded from recovery against one joint tortfeasor, by showing that others have borne a share in it. All torts by several persons are joint or several at the election of the injured party, but one satisfaction can be recovered, and there is no contribution among tortfeasors. Hence springs the right of a plaintiff, who has recovered several verdicts against different defendants, to elect *de melioribus damnis*. There is nothing in the case to show that plaintiff could not have included her aunt as defendant with the company or their officers, or maintained a separate action against her. The English case cited and relied on by the counsel of defendants, *Waite v. North-Eastern Railway Company*, 7 W. R. 311, was the case of the negligence of the person in charge of a child, who had taken and paid for his passage with defendants, a railroad company, and while waiting in the depot to get on board, the child was injured by the approach of another train, of which the defendants had given no notice. The defendants might well have said we would not have received the child as a passenger without a care taker, or if we had we would have put him in charge of a servant, or in a place where no harm could come to him till the train was ready to start. The decisions of the New York and Massachusetts courts are certainly entitled to very high respect, but they are not authority binding on us, and the precise point was not made or met in those cases.

Hartfield v. Roper, 21 Wend. 615; *Holly v. The Boston Gas Co.* 8 Gray, 128. In this decision we think that we are fully sustained by the opinion of our own Supreme Court in *Smith v. O'Conner*, 12 Wright, 218.

Rule discharged and judgment for plaintiff on point reserved.

SOCIETIES AND INSTITUTIONS.

ARTICLED CLERKS' SOCIETY.

CODIFICATION—No. III.

A lecture delivered before the Articled Clerks' Society, by E. CHARLES, Esq., LL.B., of Lincoln's-inn, Barrister-at-

Law, some time lecturer on Equity at the Incorporated Law Society.

(Continued from p. 1026.)

I hope from what has been said it will be seen that the attempt to deal with the mass of English law with a view of arranging it, classifying it, and making it intelligible to the people, by means of a "Digest," will be inadequate to supply the acknowledged want.

Much may no doubt be done in the direction of a code, by means of a digest, but there are many objections taken to the formation of a code altogether which deserve careful consideration.

I will consider a few of these objections, some of which go to the root of the matter, while others merely deal with it in the light of its practicability.

A very common objection is thus stated by Mr. Reilly—"One reason," he says, "seems sufficient for regarding codification as impracticable in this country at this time. That reason is furnished by the existence of the conflicting systems of equity and law. As long as they conflict they cannot be combined in a code. The conflict can only be terminated either by the absorption of one into the other or by the forcible amalgamation of the two by the action of the Legislature. The former is the work of time, the latter must precede codification, not be attempted as part of it."

This objection has, I confess, always filled with astonishment. It is, I think, a singular instance of putting the cart before the horse.

It seems to me that no real step can be taken towards the accomplishment of the fusion of law and equity until, by means of the authority of the Legislature, or, as I should say, by the authoritative machinery of a code, the conflict between the two systems has been removed. So far from considering that a "forcible amalgamation of the two systems by the action of the Legislature" must necessarily precede codification, I think that such an amalgamation is impossible until, by some authoritative exposition of the law, the distinction between the two systems has been abolished. I quite believe that no true fusion will be arrived at until every judge is armed with plenary equitable as well as common law powers, but I think that the experience of recent legislation has shown how difficult it is to arm a single judge with such powers so long as the principles which regulate the systems of law and equity are preserved. It is well known within how narrow a limit the courts of law have admitted the equitable defences which were authorised by the Common Law Procedure Act, 1854. It is equally well known with what reluctance the legislation of Sir Hugh Cairns and Sir John Rolt has been accepted by the Court of Chancery. I look upon the fusion of the two systems as impossible until we have obtained, by means of a code, an uniform series of principles of law laid down which are binding upon every judge, on whichever side of Westminster Hall he may sit. The fusion of law and equity can only be accomplished by an uniformity in the rules of law. The separation of the courts and the differences of remedies are purely accidental, and would expire of themselves when every judge was bound to administer the same law wherever his court might be held. So far then from the distinction between law and equity being an objection to the undertaking of a code, I think that it is the strongest argument in favour of its expediency, even of its pressing necessity.

But then it is said that, after all, if made, a code would not prevent the gradual accumulation of new decisions, which, in their turn, would require to be digested or codified. This is obviously a very poor argument to use against the reduction of the chaos of the existing law into some sort of order. It is true that cases must arise, after the code is formed, where differences of opinion will exist as to the construction to be put upon the code, and thus comments or decisions on the code will multiply. But the remedy is very simple, viz., to revise and amend the code at stated intervals, incorporating the gist of the later decisions into the code. This plan is advocated by the Indian Law Commissioners; they say—"We agree with the framers of the Penal Code in thinking that, for the prevention of this great evil (the rise of comments and decisions on the existing code) the enacted law ought, at intervals of only a few years, to be revised and so amended as to make it contain, as completely as possible, in the form of definitions, of rules, or of illustrations, everything which may from time to time be deemed fit to be made a

part of it, leaving nothing to rest as law on the authority of previous judicial decisions. Each successive edition, after such revision, should be enacted as law, and would contain, sanctioned by the Legislature, all judge-made law of the preceding interval deemed worthy of being retained. On these occasions, too, the opportunity should be taken to amend the body of law under revision in every practicable way, and especially to provide such new rules of law as might be required by the rise of new interests and new circumstances in the progress of society."

Closely akin to the last objection is the argument that a code is undesirable because it must be incomplete. It cannot foresee all possible cases. Mr. Austin, in his lectures, has disposed of this objection by the observation that it is equally true of all law, and that it applies with particular force to *judiciary* law, for this consists of a heap of particular decisions inapplicable to the solution of future cases. One of the severest charges which can be brought against a judge is that he travels out of the facts of the case, and pronounces what are termed *extra-judicial* opinions on questions which may hereafter arise. Sir Samuel Romilly, in his article on codification, contributed to the *Edinburgh Review*, notices this. He says, "The judge is compelled to take the narrowest view of every subject on which he legislates. The law he makes is necessarily restricted to the particular case which gives occasion for its promulgation. Often when he is providing for a particular case, or, according to the fiction of our constitution, is declaring how the ancient and long-forgotten law has provided for it, he represents to himself other cases which probably may arise, though there is no record of their ever having yet occurred, which will urgently call for a remedy, as that which it is his duty to decide. It would be a prudent part to provide, by one comprehensive rule, as well for these possible events as for the actual matter that is in dispute, and while terminating the existing litigation, to obviate and prevent all future contests. This, however, is to the judicial legislator strictly forbidden; and if, in illustrating the grounds of his judgment, he adverts to other and analogous cases, and presumes to anticipate how they should be decided, he is considered as exceeding his province, and the opinions thus delivered are treated by successive judges as *extra-judicial*, and as entitled to no authority."

But what the judge cannot do, *i.e.*, provide for future cases, the codifier may do, and, to the extent of his ability, must do. A code need in no sense be a mere re-expression of existing decision, it may point to new cases. This is peculiarly necessary in framing a Penal code, where the punishment of every sort of offence should be provided for. But it would be idle to expect that the code should provide for every peculiar case. M. Portalis, who, as we have seen, was one of the three commissioners appointed to prepare the French Code, thus speaks on this point:—"We have guarded against the dangerous ambition of wishing to regulate and to foresee everything. The wants of society are so varied, the intercourse between men is so active, their interests so multifarious, and their relations so extended, that it is impossible for the legislator to provide for every emergency. We know that never, or scarcely ever, in any case can a legislator be so clear and precise that good sense and equity will alone suffice to decide it. A question springs up, Then what is to decide it? To this it is replied that the office of the law is to fix, by enlarged views, the general maxims of right and wrong, to establish principles fruitful in consequence, and not to descend to the details of all questions which may arise upon each particular topic. It is for the magistrate and juries to consult, penetrated with the general spirit of the law to direct their application." The New York Commissioners also disclaim being supposed to have foreseen all cases. All that they propose "is to have collected those general rules known to our law which are applicable to our present circumstances, and ought to be continued; and they flatter themselves that for the unforeseen cases which are certain to arise there are general principles, rules of interpretation, and analogies, which will serve as guides for judicial decision."

The last objection, on any ground of principle, to a code, arises from the alleged difficulty of dealing with cases in which the code is silent, and furnishes no such analogy as to justify its being put into operation.

What is to be done in such cases? Are the parties to be at liberty to go back to previous judicial decisions in order to

discover a precedent for a course of action, or is the question to be decided upon the general principles of justice, as the same may approve themselves to the mind of the judge.

It seems to me that the second course is the more advisable. I think that if a code be promulgated, a reference to antecedent judicial decision or authoritative rule for any purpose whatever should be absolutely prohibited. If allowed, it must inevitably be permitted in cases as to which it is doubtful whether the code applies, and then by another easy stage it would be impossible to preserve it from being applied to the construction of the code itself.

This difficulty has been felt in the formation of every modern code, and has been dealt with somewhat differently.

In the French Code, which took the place of the numerous usages and customs in force north and south of the Loire, known as the *Loi coutumière* and the *Droit écrit*, although, as we have seen, M. Portalis spoke of the general spirit of the law and the sense of national justice as the ultimate resort of unforeseen cases, the old law was only abrogated so far as it was inconsistent with the new, and, where the code was silent, every judge was to decide according to the law which formerly prevailed in the vicinity; so that a knowledge of the old *Loi coutumière* and the *Droit écrit* was still necessary for the French lawyers.

A similar system is observed in the formation of the Civil Code of New York. Thus, say the Commissioners:—

"If there be any existing rule omitted from the code, and not inconsistent with it, that rule will continue to exist in the same form in which it now exists; while, if any new rule, now for the first time introduced, should not answer the good ends for which it was intended, which can be known only from experience, it can be remedied or abrogated by the same lawgiving department which made it; and if new cases arise, as they will, which have not been foreseen, they may be decided, if decided at all, precisely as they would now be decided, that is to say, by analogy, to some rule in the code or to some rule omitted from the code, and therefore still existing, or by the dictates of natural justice."

The new code for Lower Canada is framed on the same principles. It is provided, section 2613, that the laws in force at the time of the coming into force of the code should be abrogated in all cases (1) in which there is a provision in the code having expressly or impliedly that effect; (2) also in which such laws are contrary to or inconsistent with any provisions in the code; (3) in which express provision is made in the code upon the particular matter to which such laws relate.

The old law of Lower Canada, which consisted, in civil matters, of the custom of Paris prevalent at the time of the cession of the country to the British Crown, modified by provincial statutes, and in some cases by portions of the law of England, therefore remains in force in cases not touched by the code, and still requires the attention of lawyers.

On the other hand the Indian Law Commissioners have taken a bolder, and, I venture to think, a wiser course in suggesting that when cases of difficulty occur no resort should be had to any other system of law for the purpose of authoritatively solving an ambiguity or supplying an omission, but that the judges must decide cases unprovided for by the code in the manner they consider most consistent with the principles of justice, equity, and good conscience.

I feel very strongly myself that it would be better to bear with much delay in the preparation of a complete code for England rather than frame a code which would admit of any reference to antecedent decisions by way of precedent in any case whatever. Let questions on which the code furnishes no precise guide be determined by the judges, as the Indian Commissioners suggest, on the principles of justice, equity, and good conscience.

The difficulty of thus deciding would be greatly diminished when there is no conflicting common law in existence. The courts would be courts of equity administering justice in a country where there are no courts of law. This was the case with the Mofussil, or county courts in India, and it is stated to have been a great advantage. Thus it is said—"The Mofussil Court has nothing to do but to administer equity, following law of course, but unnumbered by the co-existence of courts of law, that is to say, to give to every suitor his legal rights when there is

nothing inequitable in them; when there is anything inequitable in them then his legal rights modified and corrected by equity. Again, as every British subject who sues in the Mofussil is seeking equity, he is asked, according to the well-known rule, to do equity as the price of obtaining it."

(To be continued.)

OBITUARY.

THE RIGHT HON. FRANCIS BLACKBURNE.

The Right Hon. Francis Blackburne, ex-Lord Chancellor for Ireland, died on the evening of the 17th, at his own residence. He was born in 1782, at Footstown, County Meath, his father being a gentleman of small property in that county. On the mother's side he was descendant of Dr. Ezekiel Hopkins, Bishop of Derry, during the famous siege of which historians have found so much to say. He entered Trinity College, Dublin, in 1798, and there achieved considerable distinction, carrying off the gold medal and a scholarship in 1803, besides other honours. In 1805 he was called to the bar, and, after seventeen years' practice as a junior, received "silk" in 1822. At this time, when party feeling ran high, the future Lord Chancellor was not disposed to enter the political arena. He was known as a man of moderate though decided opinions, and held himself aloof from those political controversies which had such engrossing attractions for many of his compeers.

In 1823 he received from the administration of Lord Wellesley the appointment of judge, to act in the counties of Limerick and Clare, as a contemporary reminds us, in enforcing the Insurrection Act. In 1826 he became third serjeant and a bench. In 1831, under Earl Grey's administration, he became Attorney-General, the contemporary Solicitors-General being Crampton, afterwards judge of the Queen's Bench, and O'Loghlen, afterwards Sir Michael O'Loghlen, Baron of the Exchequer and Master of the Rolls.

In 1834 Sir Robert Peel came into power and the Attorney-General consented to continue in office, a line of conduct which entailed on him much obloquy from those who failed to appreciate his motives. In 1835 he declined to join Lord Melbourne's administration, his reasons being identical with those which actuated Lord Derby and Sir James Graham in declining to associate themselves with that administration. He now remained out of office until 1841, when, under Sir Robert Peel, he again became Attorney-General, and the following year made him Master of the Rolls. He quitted that office to become Chief Justice of the Queen's Bench in 1846. During his tenure of this post he presided over the Commission which tried Smith O'Brien and the other conspirators whose scheme had ended in what is remembered as the cabbage-garden fiasco. In 1852, under Lord Derby, he was raised to the Lord Chancellorship. His tenure of office was, however, of but short duration; Lord Derby went out of office at the end of a few months, and with him Lord Chancellor Blackburne retired. He was now 70 years of age; his retirement again was but temporary, for in 1856 the office of Lord Justice of Appeal having been created by the statute of 19 & 20 Vict. c. 92, Ex-Chancellor Blackburne was appointed by Lord Palmerston to the place. He continued in the discharge of this office until the commencement of the present administration, when he again accepted the position and duties of Lord Chancellor, which failing health compelled him to resign a few months ago. Lord Chancellor Blackburne was a judge of whom it might be said that he won his position and distinguished himself more as a judge and lawyer than as a politician, and will long be remembered with regret by all with whom his duties brought him in contact.

A JUDGE ON THE TREADMILL.—It is said that Baron Platt, when once visiting a penal institution, inspected the treadmill with the rest, and being practically disposed, the learned judge philanthropically trusted himself on the treadmill, desiring the warden to set it in motion. The machine was accordingly adjusted, and his lordship began to lift his feet. In a few minutes, however, he had had quite enough of it, and called to be released; but this was not so easy. "Please my lord," said the man, "you can't get off. It's set for twenty minutes; that's the shortest time we can make it go." So the judge was in duance until his "term" expired.

PUBLIC COMPANIES.

ENGLISH FUNDS AND RAILWAY STOCK.

LAST QUOTATION, Sept. 19, 1867.
[From the Official List of the actual business transacted.]

GOVERNMENT FUNDS.

3 per Cent. Consols, 94½	Annuities, April, '85
Disto for Account, Oct. 8, 94½	Do. (Red Sea T.) Aug. 1908 20½
3 per Cent. Reduced, 93½	Ex Bills, £1000, 3 per Ct. 30 pm
New 3 per Cent., 93½	Disto, £500, Do 30 pm
Do. 3½ per Cent., Jan. '94	Disto, £100 & £200, 30 pm
Do. 2½ per Cent., Jan. '94	Bank of England Stock, 5½ per
Do. 5 per Cent., Jan. '93	Ct. (last half-year)
Annuities, Jan. '80 —	Disto for Account,

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 222	Ind. Inf. Pr., 5 p Ct., Jan. '72, 104½
Disto for Account	Disto, 5½ per Cent., May, '79, 109½
Disto 5 per Cent., July, '80, 113½	Disto Debentures, per Cent.,
Disto for Account, —	April, '84 —
Disto 4 per Cent., Oct. '88, 96½	Do. Do., 5 per Cent., Aug. '73
Disto, disto, Certificates, —	Do. Bonds, 5 per Ct., £1000, 65 pm
Disto Infaced Ppr., 4 per Cent. 88½	Disto, disto, under £1000, 65 pm.

RAILWAY STOCK.

Shares.	Railways.	Paid.	Closing Prices.
Stock	Bristol and Exeter	100	84
Stock	Caledonian	100	106½
Stock	Glasgow and South-Western	100	112
Stock	Great Eastern Ordinary Stock	100	31½
Stock	Do., East Anglian Stock, No. 2	100	6
Stock	Great Northern	100	115½
Stock	Do., A Stock*	100	119½
Stock	Great Southern and Western of Ireland	100	98
Stock	Great Western—Original	100	49 x d
Stock	Do., West Midland—Oxford	100	35 x d
Stock	Do., do.—Newport	100	30 x d
Stock	Lancashire and Yorkshire	100	128½
Stock	London, Brighton, and South Coast	100	53½
Stock	London, Chatham, and Dover	100	20½
Stock	London and North-Western	100	113½
Stock	London and South-Western	100	84
Stock	Manchester, Sheffield, and Lincoln	100	45½
Stock	Metropolitan	100	125½
Stock	Midland	100	123½
Stock	Do., Birmingham and Derby	100	93
Stock	North British	100	34
Stock	North London	100	116
10	Do., 1866	5	6½
Stock	North Staffordshire	100	66
Stock	South Devon	100	47½
Stock	South-Eastern	100	70
Stock	Taft Vale	100	145
10	Do., C	—	—

* A receives no dividend until 6 per cent. has been paid to B.

MONEY MARKET AND CITY INTELLIGENCE.

Thursday Night.

Although the past week has exhibited more fluctuation in prices than its predecessor, the result may be shortly summed up in the one word—dullness. Bank shares have been especially dull, and of the more speculative investments British Railways have displayed the largest amount of animation. This being the "dead" time of the year, something more than usually exciting would be required to occasion a rally, and no such alteration has made its appearance, while the continued bullion plethora and the decline of French Rentes have had a depressing influence upon the English Markets; indeed, foreign advices exhibit a great unanimity of dullness. In France the position of the Crédit Mobilier occasions considerable anxiety. Rentes, 68½. 95c.

THE MASTERS AND WORKMEN (COUNCILS OF CONCILIATION) BILL.—Lord St. Leonards has written the following respecting this measure:—"The above act is simply a permissive one, and not compulsory. Men, as well as masters, therefore, will require a copy of the act in order to know how to avail themselves of its powers. To supply this want I have, with the kind assistance of Messrs. Eyre & Spottiswoode, arranged for the immediate circulation throughout the country of copies of the act. They will be directed to the mayors of all the hives of industry for circulation by them—a task I am sure they will willingly perform. I will only add that, although the act may not stop actual strikes, it will fail in its object if it do not prevent strikes."

The ladies and gentlemen who figure in the Divorce Court and entertain the readers of penny newspapers with descriptions of the follies, sufferings, or crime sometimes attendant upon married life, do not in all cases seem to be very averse to again entering into those bonds which they once found inconvenient. In the year 1865 forty-nine divorced persons again braved the dangers of matrimony. Twenty-three gentlemen, who had got rid of their wives, replaced them by as many spinsters. Four gentlemen similarly situated, but of a bolder order of mind, sought in the

society of four widows a return of that bliss which had vanished at the interference of Sir Cresswell Cresswell or Sir James Wilde, and seventeen bachelors and three widowers, men of unexampled courage, led to the altar twenty divorced ladies. In only one case did a lady and gentleman who had both disregarded the marriage tie again subject themselves to its restrictions, and it is to be hoped that all the good fortune which such an act of heroism deserves waited upon them.—*London Review*.

In Texas, in several of the civil courts, cases have been tried before juries composed wholly of negroes. The intelligence of these juries may be judged by an anecdote. A negro in Bexar had committed an assault on a brother freedman. The offender was arrested and brought before a justice of the peace, who summoned a jury of six (as by municipal law he was permitted to do) to try the case. The testimony having been given, the jury was requested, under instruction, to "find a verdict according to the evidence." After an absence of an hour the foreman returned and said, "Mr. Court—We be lugged up de chimney and ebbin in crack and under de floah, and by gow, we can't find nodin' lukes like a wordick." Explanations ensued and Sambo retired. In a few minutes the foreman returned and asked, "Lukh heah, Mr. Court, isn't I de foreman of this jury?" The court replied in the affirmative. "Well den, I told dem cusses so, and dat dey must gree as I said, and dey wont do it? Musn't dey do it, Mr. Court?" At last the counsel in the case were sent to the jury to explain the circumstances and a "wordick" was ultimately obtained.

ESTATE EXCHANGE REPORT.

AT THE MART.

Sept. 12.—By Messrs. C. C. & T. Moores.

Freehold business premises, No. 184, Brick-lane, Spitalfields, let on lease at £60 per annum—Sold for £1,000.
 Freehold house, No. 14, Brown's-lane, adjacent to above, let at £30 per annum—Sold for £410.
 Freehold house, known as Alice-cottage, and 8 acres of land, situate near Bagshot, Surrey—Sold for £800.
 Freehold residence, known as Arno-cottage, Luton-place, Greenwich, annual value £50—Sold for £790.
 Leasehold, 2 houses, Nos. 13 & 14, South-terrace, Grosvenor-park, Camberwell, producing £64 per annum; term, 53 years, at £10 per annum—Sold for £710.
 Freehold house, No. 7, Sugarloaf-court, Leadenhall-street, City, let at £27 per annum—Sold for £700.
 Freehold house and shop, No. 32, George-row, Bermondsey, let at £21 12s. per annum—Sold for £300.
 Copyhold house, No. 1, Rhodeswell-road, Stepney, let at £12 per annum—Sold for £170.
 Leasehold house, No. 1, Prospect-row, Back-road, St. George's East, and a house, No. 1, Prospect-place, in rear, producing £33 per annum; term, 18 years unexpired, at £2 per annum—Sold for £200.
 Leasehold, 3 houses, Nos. 7, 8, and 41, Essex-street, Commercial-road, producing £39 per annum; term, 19 years unexpired, at £3 3s. per annum—Sold for £155.
 Leasehold house, No. 24, Morpeth-street, Victoria-park, annual value £22; term, 59 years unexpired, at £4 10s. per annum—Sold for £150.
 Leasehold, 12 houses, Nos. 3 to 14, Industrious-place, Beadonwell, Kent, producing £124 16s. per annum; term, 99 years from 1859, at £4 10s. per annum—Sold for £290.
 Leasehold, 19 houses, Nos. 1 to 12, on the west side, and 3 & 4, on the east side of Bere-street, Ratcliff; also, Nos. 1 to 5, Garden-place in the rear, producing £209 19s. per annum; term, 26 years unexpired at £70 per annum—Sold for £480.
 Lease and goodwill of the business premises, No. 48, High-street, White-chapel; term, 7 years unexpired, at £50 per annum—Sold for £300.
 Leasehold, 4 residences, Nos. 9 to 12, Coborn-terrace, Bow-road, producing £189 per annum; term, 50 years unexpired, at £62 per annum—Sold for £1,115.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

BESLEY—On Sept. 12, at 4, Belgrave-villas, Brixton, the wife of Edwd T. E. Besley, Esq., Barrister-at-Law, of a daughter.
 COLLINS—On Sept. 14, at Satis-house, Yoxford, Suffolk, the wife of W. A. Collins, Esq., Q.C., of a son.
 CLARK—On Sept. 18, the wife of Alfred Clark, Esq., of Addison-gardens South, Kensington, and Lincoln's-inn-fields, of a son.
 PAIN—On Sept. 13, at No. 1, Argyl-road, Kensington, the wife of Thomas Pain, Esq., Barrister-at-Law, of Lincoln's-inn, of a daughter.
 PALMER—On Sept. 13, at Sunbury, Middlesex, the wife of J. E. Palmer, Esq., Barrister-at-Law, of a daughter.
 PERKINS—On Sept. 10, at Thripole-place, Cambridgeshire, the wife of Henry Perkins, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

CARTWRIGHT—CURTIS—On Sept. 17, at King's Lynn, Bernard Talbot Cartwright, Esq., Solicitor, of Wolverhampton, to Marie Josephine, daughter of James Curtis, Esq., of Wornegay, Norfolk.
 CHAMBERS—NEWBOLT—On Sept. 12, at Barrington-park, F. J. Chambers, Esq., Barrister-at-Law, to Henrietta Cecilia, daughter of the late Rev. William Robert Newbolt, vicar of Somerton, Somerset.
 EDGE—LOUGHBOROUGH—On Sept. 18, at Holy Trinity Church, Tulse-hill, Surrey, John Edge, Esq., Barrister-at-Law, of the Middle Temple, son of Benjamin B. Edge, Esq., of Clombrook, in the Queen's county, Ireland, to Laura, daughter of Thomas Loughborough, Esq., of Selwood-lodge, Tulse-hill.

ROFFEY—RODICK—On Sept. 11, at the parish church of St. James, Kidbrooke, Thomas William Roffey, Esq., Solicitor, of Stockwell, to Maria, daughter of the late Edward London Rodick, Esq., of Blackheath.

TAYLOR—RODICK—On Sept. 11, at the parish church of St. James, Kidbrooke, George Whitfield Taylor, Esq., Solicitor, of Blackheath, to Jane, daughter of the late Edward London Rodick, Esq.

WAISTELL—TOYNE—On Sept. 11, at St. Luke's, Jersey, Charles Waistell, Esq., Solicitor, Northampton, to Margaret Ida, daughter of John Holland Toyne, Esq., of Irlington.

DEATHS.

ALDRIDGE—On Sept. 17, at Poole, Anne Aldridge, wife of Henry Moor-ing Aldridge, Esq., Solicitor, Poole, aged 64.

BLACKBURN—On Sept. 17, at his residence, The Castle, Rathfriland near Dublin, the Right Hon. Francis Blackburne, late Lord Chancellor of Ireland.

GARDNER—On Sept. 11, at Montfort-house, Leamington, Richard Gardner, Esq., Solicitor, aged 34.

GREEN—On Aug. 15, at Torquay, Frederick Green, Esq., Solicitor, of 10, Angel-court, Bank.

OLIVER—On Sept. 15, at 30, Ladbrooke-square, Notting-hill, James Oliver, Esq., Barrister-at-Law, aged 48.

TATTERSHALL—On Sept. 17, at New Barnet, Herts, Annie Isabel, infant daughter of E. G. Tattershall, Esq., Solicitor, of Great James-street, Bedford-row.

LONDON GAZETTES.

Winding-up of Joint Stock Companies

FRIDAY, Sept. 13, 1867.

LIMITED IN CHANCERY.

Hafod-y-Wern Slate Company (Limited).—Creditors are required, on or before Oct 1, to send their names and addresses, and the particulars of their debts or claims, to George Butler, 19, King-st, Chancery-side, Monday, Nov 11 at 12, is appointed for hearing and adjudicating upon the debts and claims.

Friendly Societies Dissolved.

FRIDAY, Sept. 13, 1867.

Radcliffe Freemasons Sick and Burial Society, Bull's Head-inn, Radcliffe-bridge, Lancaster. Sept 9.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, Sept. 13, 1867.

Anyon, Richd, Whittle-le-Woods, Lancaster, Cotton Spinner. Oct 9. Rigby v Anyon.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, Sept. 13, 1867.

Atlee, Chas Nelson, Ealing, Schoolmaster. Nov 12. Ellis, Gresham-house.
 Bush, John, Nottingham, Coach Maker. Dec 25. Hawkrige & Cockayne, Nottingham.
 Carter, John, Potter Grange, nr Gooles, York, Wine Merchant. Oct 2. Carter.
 Clifton, Steph, Reigate, Surrey, Brewer. Oct 1. Down, Dorking.
 Davis, John, Elizabeth-pl, Prince's-rd, Livery Stable Keeper. Nov 21. Clutton, Sergeant's-inn, Fleet-st.
 Herbert, Wm, Nottingham, Lace Manufacturer. Dec 25. Hawkrige & Cockayne, Nottingham.
 Holbrook, Thos, Nottingham, Cab Proprietor. Dec 21. Hawkrige & Cockayne, Nottingham.
 Kelly, Mary, Forthchester, Southampton, Widow. Nov 23. Goble, Fareham.
 Marshall, Thos, Berkeley, Gloucester, Gent. Nov 5. Gibbs, Bath.
 Miller, John, Oxtou, Nottingham, Farmer. Dec 25. Hawkrige & Cockayne, Nottingham.
 Mine, Mary, Glossop, Derby, Widow. Sept 30. Boothroyd & Son, Stockport.
 Moss, Mary, Thayer-st, Manchester-sq. Oct 15. Watson & Son, Aylesbury.
 Ridgway, Benj, Macclesfield, Chester, Silkman. Oct 14. Washington, Congleton.
 Roper, Thos, Ross, Hereford, Hotel Keeper. Sept 29. Osborne, Ross.
 Thould, Catherine, Croydon. Oct 24. Johnston & Jackson, Chancery-lane.
 Walton, Henrietta Lucinda, Worcester, Spinster. Dec 24. Allen, Worcester.
 TUESDAY, Sept. 17, 1867.
 Bates, Saml, Brenclych, Kent, Farmer. Nov 1. Cripps, Tunbridge Wells.
 Botteley, Abigail, Dawley-green, Salop, Widow. Oct 25. Phillips, Shifnal.
 Fraser, John, Newcastle-upon-Tyne, Mason. Nov 11. Keeslyside & Forster, Newcastle-upon-Tyne.
 Mettam, Jas, Sheffield, Licensed Victualler. Oct 10. Smith & Burdakin.
 Shaw, Robt, Sheffield, Pawnbroker. Dec 1. Smith & Hind, Sheffield.
 Shipley, Charlotte, Winchester, Hants, Widow. Nov 11. Waters, Winchester.
 Sutcliffe, Harriet, Manch, Tin Plate Worker. Oct 26. Heath & Sons, Manch.
 Tuffnell, Eliz, East Bergholt, Suffolk, Widow. Nov 8. Redpath & Holdsworth, Suffolk-lane.
 Waldoek, Hy, Bleak-hall, Biggleswade, Bedfordshire, Farmer. Oct 21. Chapman, Biggleswade.
 Wingate, Wm, Hucclecote, Gloucester, Gent. Nov 30. Ellis & Sheppard, Gloucester.
 Wright, Wm, South Shields, Durham, Shipowner. Oct 29. Wawn & Purvis.

Deeds registered pursuant to Bankruptcy Act, 1861.

FRIDAY, Sept. 13, 1867.

Adams, Alfred Edwd, Blakesley-st, Commercial-rd, out of business. Reg Sept 9. Comp. Reg Sept 13.
 Albu, Adolph, Houndsditch, Merchant. Sept 12. Comp. Reg Sept 13.
 Alderson, Geo, West Hartlepool, Durham, Builder. Sept 8. Comp. Reg Sept 13.
 Allen, Joseph, Horbury, York, Shop Keeper. Aug 14. Asst. Reg Sept 11.
 Barron, John, Manch, Comm Agent. Sept 6. Asst. Reg Sept 13.
 Bonner, Fredk Benj, High-st, Borough, out of business. Aug 17. Comp. Reg Sept 12.
 Britten, John, Midsomer Norton, Somerset, Tailor. Sept 2. Asst. Reg Sept 13.
 Caley, Winkin Lawrence, Windsor, Berks, Builder. Aug 30. Asst. Reg Sept 13.
 Carter, Thos, Jarro, Durham, Tobacconist. Sept 2. Comp. Reg Sept 12.
 Charlton, John, Stockton, Durham, Provision Dealer. Aug 14. Asst. Reg Sept 11.
 Chown, Hy Chas, Lpool, Boot Dealer. Sept 9. Comp. Reg Sept 13.
 Coker, Jas Thos, Little Britain, Printer. Aug 15. Comp. Reg Sept 10.
 Cooper, Arthur, Bishopsgate-st, Without, Merchant. Sept 12. Comp. Reg Sept 13.
 Coxon, Edwin, Walsall, Stafford, Haberdasher. Aug 31. Comp. Reg Sept 11.
 Davy, Wm, High-st, Borough, Auctioneer. Sept 2. Comp. Reg Sept 9.
 Easby, Richd, Nun Monckton, York, Farmer. Aug 17. Asst. Reg Sept 13.
 Edson, Anthony, Barnsley, York, Straw Hat Manufacturer. Aug 22. Asst. Reg Sept 12.
 Esaunder, Jas Louis, The Terrace, Kensington, Surgeon Dentist. Aug 24. Comp. Reg Sept 13.
 Fellows, Joseph, Smethwick, Stafford, Maltster. Aug 17. Comp. Reg Sept 13.
 Fraser, Chas, Seymour-pl, Wandsworth-rd. Sept 4. Comp. Reg Sept 9.
 Gittos, John, Handsworth, Stafford, Coke Merchant. Sept 11. Comp. Reg Sept 13.
 Goldman, Jean, Neath Glamorgan, Photographic Artist. Aug 29. Comp. Reg Sept 12.
 Greaves, Edwin Tracy, Cardiff, Glamorgan, Chemist. Sept 9. Comp. Reg Sept 11.
 Hall, Geo, John Hall, & Fredk Hall, North Shields, Northumberland, Boot Maker. Aug 30. Comp. Reg Sept 11.
 Harris, Benj Coleman, & Geo Grout, Upper-st, Islington, Draper. Aug 14. Asst. Reg Sept 10.
 Harrison, Richd, Walsall, Stafford, Saddler. Aug 23. Comp. Reg Sept 12.
 Holton, John Philip Steeds, Southampton, Coal Merchant. Aug 30. Asst. Reg Sept 12.
 Holton, John Philip Steeds, & Alfred Pilditch, Southampton, Coal Merchants. Aug 30. Asst. Reg Sept 13.
 Hopkinson, Jas, Goolo, York, Millwright. Aug 13. Asst. Reg Sept 10.
 Hopper, Augier Alfred, Victoria Docks, Licensed Victualler. Sept 10. Comp. Reg Sept 13.
 Hutchinson, Joseph, Maesteg, Glamorgan, Builder. Aug 30. Comp. Reg Sept 11.
 Jones, Steph Thos, Milton-st, Packing Case Manufacturer. Aug 27. Comp. Reg Sept 12.
 Jowett, Joseph, Bradford, York, Worsted Top Maker. Aug 27. Asst. Reg Sept 13.
 Kempton, Alfred, Park-st, Victoria-pk, Carpenter. Sept 5. Comp. Reg Sept 11.
 King, John, Mayfield, Sussex, Bootmaker. Aug 17. Asst. Reg Sept 12.
 Levy, Myer, London-rd, General Dealer. Sept 11. Comp. Reg Sept 13.
 Lorey, Edwd, Hetton-cottage, Peckham, Wine Importer. Sept 2. Comp. Reg Sept 10.
 Mannheim, Marx, Lpool, Travelling Jeweller. Aug 17. Comp. Reg Sept 13.
 Mason, Robt Hindry, Old Bond-st, Photographer. Aug 13. Comp. Reg Sept 10.
 McKend, John, Bolton, Lancaster, Draper. Sept 4. Asst. Reg Sept 12.
 Mills, Saml, Leeds, Grocer. Sept 7. Comp. Reg Sept 13.
 Morie, John Saml, Bath, Florist. Aug 15. Asst. Reg Sept 11.
 Morpew, John, Kingston-upon-Hull, York, Draper. Aug 14. Comp. Reg Sept 10.
 Munday, Geo Luther, Bath, Schoolmaster. Aug 26. Comp. Reg Sept 10.
 Naylor, Anne, John Weston Taylor, & Wm Taylor, Sheffield, Merchants. Aug 22. Comp. Reg Sept 10.
 Pass, Thos, Conington, Chester, Cabinet Maker. Aug 31. Comp. Reg Sept 13.
 Rae, Fras, Blackburn, Lancaster, Draper. Aug 17. Comp. Reg Sept 12.
 Rudgo, Geo, Coleford, Gloucester, Bootmaker. Aug 31. Comp. Reg Sept 12.
 Russell, Saml, Sheffield, Britannia Metal Manufacturer. Aug 26. Comp. Reg Sept 12.
 Sherman, Alex, Leadenhall-st, Shipping Agent. March 21. Comp. Reg Sept 13.
 Small, Edwd, Barton-upon-Humber, Lincoln, Draper. Sept 3. Comp. Reg Sept 11.
 Smith, John, & Nicholas Shields, Glusburn, York, Grocers. Aug 17. Asst. Reg Sept 11.
 Thomas, Richd Griffith, & John Chas May, Circus-rd, St John's-wood, Builders. Aug 14. Comp. Reg Sept 11.
 Thompson, John, Sunderland, Durham, Rope Manufacturer. Aug 26. Comp. Reg Sept 11.
 Tili, Jas, Leeds, Draper. Aug 16. Comp. Reg Sept 12.

Walter, Edwin, Church-rd, Islington, Wholesale Milliner. Aug 19. Comp. Reg Sept 10.
 Warren, Edwd, Old Kent-rd, Furniture Dealer. Aug 29. Comp. Reg Sept 13.
 Wigglesworth, Jabez, Leeds, Confectioner. Sept 2. Comp. Reg Sept 12.
 Williams, Chas Hy, Poultry, Comm Agent. Sept 11. Comp. Reg Sept 13.
 Woods, Jas, Haslingden, Lancaster, Draper. Aug 21. Asst. Reg Sept 13.
 Worsley, John, Luton, Bedford, Publican. Aug 19. Comp. Reg Sept 11.
 Young, Septimus, North Shields, Northumberland, Ship Broker. Sept 2. Comp. Reg Sept 12.

TUESDAY, Sept. 17, 1867.

Barnsley, Abraham, & Joseph Barnsley, Halesowen, Worcester, Gas Tube Manufacturers. Sept 12. Asst. Reg Sept 14.
 Benjamin, Moss, Eagle-st, Holborn, General Dealer. Sept 14. Comp. Reg Sept 17.
 Boakes, Wm Geo, Deal, Kent, Painter. Sept 12. Comp. Reg Sept 14.
 Briggs, Jas Aston, Wolverhampton, Stafford, Chemist. Sept 6. Comp. Reg Sept 16.
 Britton, Catherine, Lpool, out of business. Aug 6. Comp. Reg Sept 14.
 Brook, Edwd, Leeds, Broker. Sept 9. Comp. Reg Sept 14.
 Clarke, Thos Taunton, Bodmin, Cornwall, Chemist. Sept 4. Comp. Reg Sept 14.
 Clark, Saml, Amen Corner, Paternoster-row, Music Publisher. Aug 19. Inspectorship. Reg Sept 13.
 Clayton, Fras Mary, Manch, out of business. Sept 7. Asst. Reg Sept 17.
 Colclough, Edwd Thos, Macclesfield, Chester, Smallware Dealer. Aug 30. Asst. Reg Sept 17.
 Courtenay, Wm Hy, Leo-ter, Blackheath, Ship Builder. Aug 20. Comp. Reg Sept 16.
 Cowland, Chas, Fortis-green, Finchley, Gent. Sept 13. Comp. Reg Sept 14.
 Delany, John, Lpool, Grocer. Sept 10. Comp. Reg Sept 14.
 Derham, Richd, Bristol, Retailer of Oldier. Aug 23. Comp. Reg Sept 17.
 Edmunds, Isaac, Cardiff, Glamorgan, Grocer. Aug 31. Comp. Reg Sept 14.
 Hempsall, Chas, Halifax, York, Wool and Waste Dealer. Aug 3. Comp. Reg Sept 17.
 Evans, Wm, Manch, Silk Smallware Manufacturer. Aug 21. Asst. Reg Sept 16.
 Fellows, Phillip Hy, Bilston, Stafford, Engineer. Sept 9. Comp. Reg Sept 16.
 Fodrich, Alfd, Leicester, Tobacco Manufacturer. Aug 22. Asst. Reg Sept 16.
 Greenhill, Thos, Pickering-ter, Bayswater, Furniture Dealer. Aug 31. Comp. Reg Sept 17.
 Hansell, Geo, Newcastle-upon-Tyne, Oil Refiner. Aug 21. Comp. Reg Sept 14.
 Harrop, Lewis, & Wm Hy Kershaw, Oldham, Lancaster, Cotton Spinners. Aug 28. Asst. Reg Sept 17.
 Hatch, Saml Chas, Threadneedle-st, Stock and Share Broker. Aug 29. Comp. Reg Sept 16.
 Heischfeld, Albert Martin, Botolph-lane, Wine Merchant. Aug 24. Comp. Reg Sept 17.
 Helliwell, Geo, Hackenthorpe, Bighton, Derby, Seythe Manufacturer. Aug 22. Asst. Reg Sept 14.
 Holden, Emma, Burnley, Lancaster, Tobacconist. Aug 20. Comp. Reg Sept 14.
 Holton, John Philip Steeds, & Alfd Pilditch, Southampton, Coal Merchants. Aug 30. Asst. Reg Sept 17.
 Johnson, John, West Cowes, Isle of Wight, Toy Dealer. Sept 2. Comp. Reg Sept 16.
 Kidwell, Jas, & John Sergeant, Lpool, Wine Merchants. Aug 30. Asst. Reg Sept 14.
 Leech, Saml, Middlesbrough, York, Printer. Aug 22. Comp. Reg Sept 16.
 Mason, Geo, Wolverhampton, Stafford, Draper. Aug 21. Asst. Reg Sept 16.
 Monnington, Jas, Monmouth, Wood Turner. Aug 26. Comp. Reg Sept 14.
 Moysey, Robt Loek, Lower Rosoman-st, Clerkenwell, Grocer. Aug 20. Asst. Reg Sept 16.
 Parker, Joseph Naylor, Bramley, York, Grocer. Sept 4. Asst. Reg Sept 14.
 Pitcairn, Robt, Upper Berkeley-st, Portman-sq, Gent. Aug 17. Comp. Reg Sept 14.
 Polacco, Fras, Queen's-rd, Bayswater, Merchant's Clerk. Aug 23. Comp. Reg Sept 16.
 Probert, Hy, Monmouth, Farmer. Aug 19. Comp. Reg Sept 14.
 Richards, Wm, Cardiff, Glamorgan, Architect. Aug 30. Comp. Reg Sept 10.
 Sander, Jas, Cardiff, Glamorgan, Draper. Aug 21. Comp. Reg Sept 16.
 Sharland, Isaac, Falmouth, Cornwall, General Dealer. Sept 4. Comp. Reg Sept 16.
 Stephenson, John Dixon, Lofthouse, York, Grocer. Sept 3. Asst. Reg Sept 14.
 Swias, Joseph, Golborne, Lancaster, Grocer. Aug 21. Asst. Reg Sept 12.
 Tibbits, Herbert Saml, High-st, Poplar, Surgeon. Aug 21. Comp. Reg Sept 17.
 Warren, Chas Hy Chambers, Tarvers, Bedford, Stonemason. Sept 17. Comp. Reg Sept 17.
 Webster, Jas, Wakeseld, York, Contractor. Aug 23. Asst. Reg Sept 14.
 Whitely, Joseph, Woolwich, Kent, Schoolmaster. Sept 14. Comp. Reg Sept 17.
 Winter, Edwd, New Oxford-st, Furniture Dealer. Sept 6. Comp. Reg Sept 14.
 Winter, Jas, Upper East Smithfield, Cutler. Aug 22. Inspectorship. Reg Sept 13.

Bankrupts.

FRIDAY, Sept. 13, 1867.

To Surrender in London.

Blyth, Wm. Munster-st. Regent's-pk, Licensed Victualler. Pet Sept 7. Sept 24 at 11. Beard, Basinghall-st.
Campbell, Jas, Cornhill, Tailor. Pet Sept 7. Sept 24 at 12. Reid, Bow-lane.
Clarke, Robert Joseph, Church-rd, Homerton, out of business. Pet Sept 9. Sept 24 at 1. Bastard, Philpot-lane.
Davis, Chas, Selhurst, Surrey, Builder. Pet Sept 10. Oct 3 at 11. Moss, Bucklebury.
Harding, Anne Stratton, Prisoner for Debt, London. Pet Sept 5 (for pau). Brougham. Sept 24 at 11. Dobie, Basinghall-st.
Levy, Nathaniel, Nile-st, Hoxton, Butcher. Pet Sept 10. Roche. Sept 24 at 1. Waring, Bishopsgate-st Without.
Martin, Jas, Prisoner for Debt, London. Pet Sept 7. Sept 24 at 12. Nash & Co, Suffolk-lane.
Morgan, Oswald, Albert-rd, Kilburn-pk, Builder. Pet Sept 7. Sept 24 at 11. Harrison, Basinghall-st.
Moses, Hy, Wheeler-st, Commercial-st, Shoreditch, Print Seller. Pet Sept 10. Sept 27 at 11. Edwards, Bush-lane, Cannon-st.
Nicholls, Abran, Waltham Cross, Hertford, Dealer in Coals. Pet Sept 9. Sept 24 at 12. Hope, Ely-pl.
Reeve, Benj, Bognor, Sussex, Tailor. Pet Sept 4. Sept 24 at 1. Mason & Co, Gresham-st.
Roper, Wm, Prisoner for Debt, London. Pet Sept 11 (for pau). Brougham. Sept 27 at 11. Gentry, Bow-st, Covent-garden.
Soare, Wm Edwd, Chertsey, Surrey, Prisoner for Debt, London. Pet Sept 6 (for pau). Brougham. Sept 24 at 11. Dobie, Basinghall-st.
Sutton, Sarah, Prisoner for Debt, London. Pet Sept 5 (for pau). Brougham. Sept 24 at 11. Dobie, Basinghall-st.
Tomson, Jas Saml Wm, Golden-lane, Fancy Box Maker. Pet Sept 9. Roche. Sept 24 at 1. Walter & Moofen, Southampton-st, Bloomsbury-sq.
Topley, Job Phillip, Trafalgar-rd, Greenwich, Pork Butcher. Pet Sept 6. Sept 24 at 11. Ingie & Goody, King William-st.
Tully, Joseph, Albany-st, Regent's-pk, Gent. Pet Sept 7. Sept 24 at 11. Edmunds & Mayer, Carey-st.

To Surrender in the Country.

Adams, Hamlet, Hanley, Stafford, Potter. Pet Sept 9. Challinor. Hanley, Oct 12 at 11. Tomkinson, Burslem.
Acheson, Wm Brown, Southampton, Brewer's Agent. Pet Sept 9. Thorndike. Southampton. Sept 23 at 12. Guy, Southampton.
Bell, John, Houghton-le-Spring, Durham, Engine-man. Pet Sept 9. Greenwell, Durham. Sept 24 at 11. Watson, Durham.
Belringer, Wm, Truro, Cornwall, Painter. Pet Sept 11. Chilcott.
Truro, Sept 28 at 3. Carlyan & Paul, Truro.
Boardman, Jas, Stonedolough, Lancaster, Clerk. Pet Sept 9. Holden. Bolton. Sept 25 at 10. Ramwell, Bolton.
Bowen, Geo, Swansea, Glamorgan, Grocer. Pet Sept 6. Morris, Swansea. Sept 23 at 2.30. Morris, Swansea.
Brook, Joe, Holmforth, York, Yarn Spinner. Pet Sept 5. Jones. Holmforth. Sept 23 at 10. Booth, Holmforth.
Chamberlain, Jas, Wolverhampton, Stafford, Spade Manufacturer. Pet Sept 5. Brown. Wolverhampton. Sept 30 at 12. Barrow, Wolverhampton.
Clarke, Danl, Chalfers Cotton, Warwick, Grocer. Pet Sept 10. Dewes. Nuneaton. Sept 28 at 10. Craddock, Nuneaton.
Cope, Thos, Camborne, Cornwall, Gardener. Pet Sept 7. Peter. Redruth, Oct 1 at 11. Daniell, Camborne.
Cranksaw, Wm, Belmont Mill, nr Bolton, Lancaster, Cotton Spinner. Murray. Manch. Sept 24 at 11. Leigh, Manch.
Dibble, Abraham, Weston-super-Mare, Somerset, Baker. Pet Sept 2. Wilde. Bristol. Sept 27 at 11. Brittan & Sons, Bristol.
Forster, Martin, Consett, Durham, Tailor. Pet Sept 7. Booth. Shotley Bridge. Sept 25 at 1. Salkeld, Durham.
Foxton, Wm, York, Shoe Maker. Pet Sept 11. Perkins. York. Sept 26 at 11. Grayston, York.
Funnell, Jas, Brighton, Sussex, Coal Merchant. Pet Sept 10. Evershed. Brighton. Sept 30 at 11. Penfold, Brighton.
Fynn, Elijah, Burslem, Stafford, Confectioner. Pet Sept 10. Challinor. Hanley, Oct 12 at 11. Tomkinson, Burslem.
Hall, Thos, York, Boot Maker. Pet Sept 11. Perkins. York. Sept 26 at 11. Mann, York.
Hafield, Joseph, Sutton-upon-Derwent, York, Corn Miller. Pet Sept 10. Leeds. Sept 23 at 11. Wood, York.
Hilton, Wm, Middleton, Lancaster, Oak Cake Baker. Pet Sept 9. Summerscales. Oldham. Sept 25 at 12. Clark, Oldham.
Joukings, John Alfred, Landport, Southampton, Journeyman Bricklayer. Pet Sept 7. Howard, Portsmouth.
Jones, David, Downale, Glamorgan, Mill Inspector. Pet Sept 9. Russell. Merthyr Tydfil. Sept 24 at 11. Simons, Merthyr Tydfil.
Jones, Hugh, Penrynmyrdd, Flint, Labourer. Pet Sept 9. Sisson. St Asaph. Sept 27 at 10. Roberts, St Asaph.
Jones, Wm, Penarn, nr Abergele, Denbigh, Porter. Pet Sept 6. Sisson. Rhyl. Sept 21 at 10. Williams, Rhyl.
Leverson, Wm John, Romsey, Southampton, Clerk. Pet Sept 10. Tylee. Romsey. Sept 28 at 11. Mackey, Southampton.
Lloyd, Thos, Neston, Chester, out of business. Pet Sept 11. Lpool, Sept 25 at 12. Cartwright, Chester.
Linton, Robt, Plymouth, Attorney-at-Law. Pet Sept 5. Exeter, Sept 30 at 10. Cleave & Sparks, Crediton.
Litchfield, Geo, Stourbridge, Worcester, Spade Tree Manufacturer. Pet Sept 10. Harward. Stourbridge. Sept 30 at 10. Price, Stourbridge.
Martin, John, Darlington, Durham, Provision Dealer. Pet Sept 9. Bowes. Sept 25 at 10. Clayhills, Darlington.
Martin, John, Reading, Berks, General Smith. Pet Aug 14. Collins. Reading, Oct 5 at 11. Smith, Reading.
Mardon, John, Ramsgate, Kent, Printer. Pet Sept 7. Snowden. Ramsgate. Sept 27 at 10. Bowling, Ramsgate.
Miles, Jonathan, South Kelsey, Lincoln, out of business. Pet Sept 7. Haddelsey. Calster. Sept 29 at 11.30. Saffery & Chambers, Market Rasen.
Morris, Frank, Weston Zoyland, Somerset, Baker. Pet Sept 9. Lovibond. Bridgwater. Sept 25 at 10. Cook, Bridgwater.
Neves, Jas Twyman, Brighton, Livery-stable Keeper. Pet Sept 9. Evershed. Brighton. Sept 28 at 11. Lamb, Brighton.

Parker, Robt, Wycombe, Buckingham, Beerseller. Pet Sept 9. Parker Wycombe. Sept 25 at 11. Smith, Windsor.
Randall, Geo, Charlton Kings, Gloucester, Hanlier. Pet Sept 9. Gale. Cheltenham. Sept 25 at 11. Potter, Cheltenham.
Richards, John, Bridgwater, Somerset, Butcher. Pet Sept 9. Lovibond. Bridgwater. Sept 25 at 10. Vaysey, Bridgwater.
Roberts, Ellis, Penrhynyndendreath, Merioneth, Joiner. Pet Sept 7. Jones. Portmadoc. Sept 37 at 11. Williams, Dolgelly.
Roberts, Mills, Carnarvon, Tyn-y-lan, Malster. Pet Sept 11. Lpool, Sept 23 at 11. Evans & Co, Lpool.
Roberts, Evan, Prisoner for Debt, Ruthin. Adj Aug 15. Edgworth. Wrexham. Sept 30 at 12.
Rott, Hy, Swansea, Glamorgan, Engraver. Pet Sept 6. Morris. Swansea. Sept 23 at 2.30. Morris, Swansea.
Stevens, Jas, Prisoner for Debt, York. Adj July 20. Marshall. Leeds. Sept 26 at 12. Mason, York.
Vernon, Hy, Hartford, Chester, Joiner. Pet Sept 9. Northwich. Sept 23 at 11. Fletcher, Northwich.
Weeda, Edwd, Waddebridge, Cornwall, Cabinet Maker. Pet Sept 6. Collins. St Columb Major. Sept 25 at 11. Whitfield, St Columb Major.
White, Jas, Southampton, Lodging House-keeper. Pet Sept 9. Thorndike. Sept 33 at 12. White, Portsea.
Withers, John Hy, Whimble, Devon, Farmer. Pet Sept 7. Exeter. Sept 24 at 12. Flood, Exeter.

TUESDAY, Sept. 17, 1867.

To Surrender in London.

Anthony, Hy, Allen-rd, South Hornsey, Plasterer. Pet Sept 11. Sept 27 at 12. Hall, Coleman-st.
Bennett, John Jas, Blandford Forum, Dorset, Linendraper. Pet Sept 11. Sept 27 at 11. Price, Sorjean's-inn, Fleet-st.
Holloway, Hy, Prisoner for Debt, London. Pet Sept 12. Sept 27 at 12. Dobie, Basinghall-st.
Leno, John Bedford, Drury-lane, Printer. Pet Sept 11. Sept 27 at 12. Pittman, Guildhall-chambers, Basinghall-st.
Mell, John, Wimbome Minster, Dorset, Turner. Pet Sept 12. Sept 27 at 1. Peacock, South-sq, Gray's-inn.
Mear, Jas Lawrence, Clifton-road, St John's Wood. Pet Sept 12. Sept 27 at 12. Linklaters & Co, Wallbrook.
Mullins, Jas, High-st, Woolwich, Brass Ganger. Pet Sept 14. Oct 3 at 11. Buchanan, Basinghall-st.
Nowne, Arthur, Princes-st, Rotherhithe, Clicker. Pet Sept 13. Sept 27 at 1. Popham, Basinghall-st.
Potcheary, John Isaac, Maid-a-vale, Edgware-rd, Auctioneer. Pet Sept 10. Sept 27 at 11. Bassett, St James-st, Bedford-row.
Pugh, Fredk, Green-ter, Lloyd's-row, St John-st-rd, out of business. Pet Sept 14. Oct 3 at 11. Steadman, London-wall.
Rapey, Francis Mary Anne, Bedford-road, Clapham, out of business. Pet Sept 14. Sept 27 at 1. Carter, Austinlars.
Ray, Wm, Prisoner for Debt, London. Adj Sept 12 (for pau). Brougham. Sept 27 at 1. Pope, St James-st, Bedford-row.
Schneegans, Wm Edwd, Devonshire-st, Portland-pl, Auctioneer's Clerk. Pet Sept 12. Sept 27 at 12. Ditchman, Margaret-st, Cavendish-sq.
Snow, Susanna Ann, Prisoner for Debt, London. Pet Sept 11 (for pau). Brougham. Sept 27 at 11. Dobie, Basinghall-st.
Snow, Susanna, Prisoner for Debt, London. Pet Sept 11. Sept 27 at 11. Dobie, Basinghall-st.
Strenk, Robert, Bridgwater-sq, Account Book Manufacturer. Pet Sept 12. Sept 27 at 1. Hicks, Basinghall-st.
Williams, Wm, Prisoner for Debt, London. Pet Sept 9. Sept 27 at 11. Dobie, Basinghall-st.
Wood, Wm, St Leonard's-on-Sea, Sussex, Bootmaker. Pet Sept 13. Sept 27 at 1. Miller & Miller, Sherborne-lane.

To Surrender in the Country.

Aldrich, Fredk Harvey, Green Island, Dorset, Accountant. Pet Sept 12. Exeter, Oct 1 at 2. Willaford, Exeter.
Bailey, Geo, & Manasseh Bailey, Batley, York, out of business. Pet Sept 9. Leeds. Sept 30 at 11. Blackburn & Son, Leeds.
Bates, John, Aldridge, Stafford, Shoemaker. Pet Sept 9. Walsall, Oct 3 at 12. Brevitt, Darlaston.
Beard, Thos, Tunstall, Stafford, Beerseller. Pet Sept 12. Challinor. Hanley, Oct 12 at 11. Salt, Tunstall.
Bennett, Wm, Burslem, Stafford, Earthenware Manufacturer. Pet Sept 6. Tudor. Birmingham. Sept 27 at 12. Tennant, Hawley.
Bennett, Thos, Barnoldswick, York, Cotton Manufacturer. Pet Sept 16. Leeds. Sept 30 at 11. Bond & Barwick, Leeds.
Braham, Saml, Leeds, Jeweller. Pet Sept 9. Marshall. Leeds, Oct 10 at 12. Rooke, Leeds.
Dalglish, Jas, Lpool, Shipsmith. Pet Sept 12. Hime. Lpool, Sept 27 at 3. Masters, Lpool.
David, Edwd, Bridgend, Glamorgan, out of business. Pet Sept 14. Lewis. Bridgend. Sept 30 at 12. Middleton, Bridgend.
Doyle, Michael, Everton, nr Lpool, Bootmaker. Pet Sept 12. Hime. Lpool, Sept 30 at 3. Blackburn, Lpool.
Edwards, John Brittles, Lymn, Chester, Cotton Spinner. Pet Sept 14. Macrae. Manch. Sept 30 at 11. Higson & Son, Manch.
Griffiths, Thos Lookley, Lpool, Bootmaker. Pet Sept 14. Hime. Lpool, Sept 30 at 2.30. Grocott, Lpool.
Haden, John, Birm, Lamp Manufacturer. Pet Sept 5. Tudor. Birm. Sept 27 at 12. Smith, Birm.
Harrison, Robt, Middlesbrough, York, Innkeeper. Pet Sept 13. Leeds. Sept 30 at 11. Batchbridge, Middlesbrough.
Hodges, John, Frome Selwood, Somerset, Printer. Pet Sept 14. Wilde. Bristol. Oct 1 at 11. Ames, Frome Selwood.
Hosson, Edwin, Leominster, Hereford, Cleaner. Pet Sept 7. Robinson. Leominster. Sept 30 at 10. Gregg, Leominster.
Moore, Wm, Wednesbury, Stafford, Coach Axletree Manufacturer. Pet Sept 9. Walsall. Sept 28 at 12. Ebsworth, Wednesbury.
Onley, John, Rook Ferry, Chester, Inland Revenue Officer. Pet Sept 10. Wason. Birkenhead. Sept 27 at 10. Dowdham, Birkenhead.
Pater, Wm Hy, Chertsey, Surrey, Engine Driver. Pet Sept 12. Gregory. Chertsey. Oct 3 at 11. Waterfield, Coleman-st.
Robinson, John, Fersfield, Norfolk, Farmer. Pet Sept 12. Chomery. Eyo, Oct 1 at 11. Miller, Norwich.
Robinson, Wm, Worley, near Leeds, Traveller. Pet Sept 9. Marshall. Leeds, Oct 10 at 12. Granger & Son, Leeds.